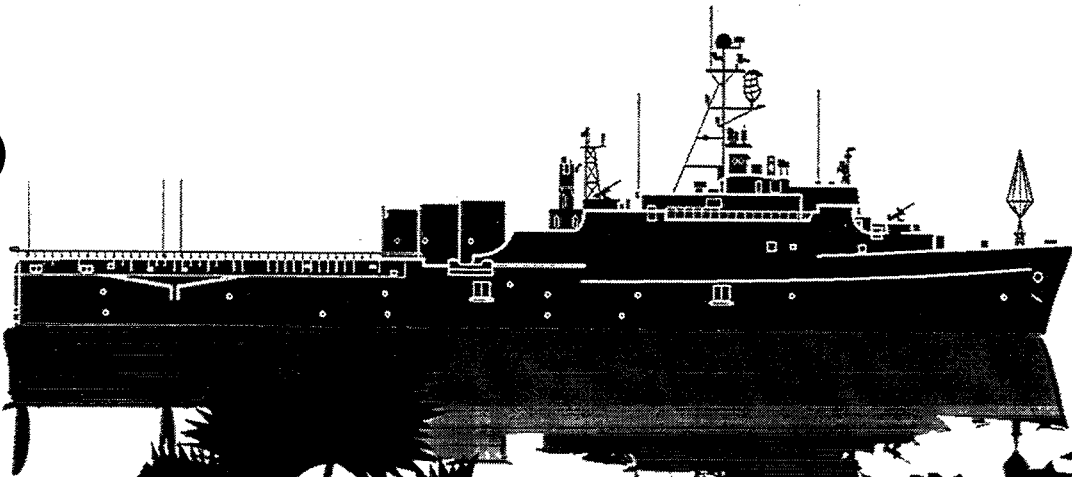


The Naval Contingency Contracting

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1. This manual covers the acquisition process and related system support for U.S. Naval personnel contracting in a contingency or field environment. It provides guidance for implementing the Federal Acquisition Regulation (FAR), and the Defense Acquisition Regulation Supplement (DFARS) and provides procedures, techniques and examples for conducting contracting actions in the field. This manual strives to be as generic as possible; it is expected that Navy military and civilian personnel assigned to contingency billets under the auspices of the Navy Contingency Contracting Program will normally supplement existing contracting operations of a joint or multi-national nature.

2. This manual applies to civilian and military warranted contingency contracting officers serving the Department of the Navy. For military members, it applies to both the active duty and the U.S. Naval Reserve (USNR) components.

3. Changes to this manual are not official unless they are approved by the Office of the Assistant Secretary of the Navy (ASN) Research, Development and Acquisition (RD&A) and Acquisition Business Management (ABM). A word of caution: this manual makes frequent references to the FAR and DFARS both of which are updated on a frequent basis. The user should always verify all references to ensure application of the most current guidelines and regulations.

4. The proponent agency for this manual is the Office of the Assistant Secretary of the Navy (RD&A) (ABM). That office has in turn delegated authority to the Naval Supply Systems Command (NAVSUP) to coordinate the Naval Contingency Contracting Program and maintain this manual. Accordingly, users are invited to send comments and suggested improvements directly to the Deputy Commander for Contracting Management, NAVSUP 02X, Naval Supply Systems Command, P. O. Box 2050, 5450 Carlisle Pike, Mechanicsburg, PA 17055-0791. Comments may also be submitted via the NAVSUP web page located at: <http://www.navsupsup.navy.mil>.


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By direction

Distribution:
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CHAPTER 1

INTRODUCTION

1-1. Purpose. This manual provides a consolidated source of information for use during the planning and conduct of guidance for implementing the Federal Acquisition Regulation (FAR) and the DOD FAR Supplement (DFARS).

1-2. Mission Statement. The mission of contingency contracting is to responsively, effectively, and legally contract for, or to contract for the providing of, the supplies, services, and construction necessary to support the mission of the supported organizations.

1-3. Requirement for Contingency Contracting Support.

a. U.S. Forces have deployed to perform tasks in support of national objectives throughout the world. These contingencies have involved the participation of military and other public, joint, or allied elements to assist in emergency situations caused by war, natural disaster, terrorist or subversive activities, collapse of law and order, or political instability. In addition to rescue and humanitarian relief missions, military contingencies can include demonstrations of force, raids, and larger operations undertaken to protect U.S. interests, lives, and property. Contingencies require planning, rapid response, flexible procedures, and integration of efforts.

b. Contracting is an integral part of the overall process of providing logistics resources. It is a tool used by service units to obtain supplies or services in support of the contingency or mission. From a contracting perspective, a contingency can generally be divided into four phases.

(1) The first phase, mobilization, is normally the first 30 to 45 days of a deployment and is characterized by chaos and confusion. During this phase, contracting officers may be expected to establish contracts for billeting, food service, transportation and equipment rental, bottled water, ground fuel, laundry services, communications, refuse collection and other requirements as needed.

(2) The second phase is sustainment. This is the period after the actual deployment is completed and before any actual hostilities begin. During this phase, host nation support may kick in to satisfy some of the requirements contracted for during the mobilization phase and some of those contracts may be terminated or transferred to the host nation.

(3) The third phase is wartime hostilities should they occur. Contracts awarded during the first two phases will continue in effect. Performance under those contracts how-ever, may be made

more difficult. Flexibility and imagination may be required to ensure that essential supplies and services continue to be made available to the end-user.

(4) The final phase, redeployment, is marked by a cessation of hostilities or completion of the mission. During this phase, the contracting officer must ensure that all basic services continue to be furnished until the last person has redeployed and all invoices and claims have been processed and paid. It is essential that no loose ends remain on site for someone else to resolve or finalize.

c. Contracting serves to bridge gaps that may occur before military logistics resources can be mobilized and in some cases will be necessary for the duration of the contingency. It will be valuable where no HNS (nation to nation) agreements exist in the deployment area, or where HNS agreements do not provide for the supplies or services required. Satisfying requirements for supplies and services by contracting for locally available resources has proven to improve response time and free airlift and sealift assets for other priority needs.

CHAPTER 2

STRUCTURE

2-1. General. The consistent lesson learned in previous mobilizations and deployments, regardless of where they took place, has been the benefit of preplanning and having a trained contracting team available at a moments notice.

2-2. Structure Overview.

a. This overview is an example of guidance for a large OCONUS deployment; however, this structure will not apply to all situations. Smaller deployments should be tailored to fit mission requirements and may result in completely autonomous operations with "cradle-to-grave" contracting.

b. The deployed contracting organization will include the HCA or his/her appointed designee. All contracting offices within the Navy contingency area of operation will function under the contracting theater for procurement purposes. All deploying contracting officers and purchasing agents will have their warrants and appointment letters, respectively, issued by the HCA of the lead service component in the theater. Non-theater HCAs shall not appoint contracting officers for in-theater contracting and shall not award contracts for in-theater services without theater HCA approval.

c. The Expeditionary Logistics Support Force (ELSF) will immediately deploy contracting Forward Area Support Teams (FAST) consisting of contracting officers to the contingency site to perform initial purchasing. The size and number of teams will be dependent on the contingency and operational requirements of the mission as determined by the theater HCA and ELSF.

d. The support staff, contracting officers, contract administrators, contract specialists, procurement clerks, cost and price analysts, property administrators, and administrative personnel will deploy with the main element to establish the main contracting organization in the theater.

e. As the support staff arrives and becomes functional, the FAST teams will be integrated under the theater concept and assist in establishing regional contracting offices as identified by the theater HCA.

f. The regional contracting officer will be in relative proximity to units and will be responsible for ordering officers working in remote areas.

g. As the contingency closes, the contracting function will reverse the build-up process, whereby the regional contracting offices will close out contracts and procurement actions turning

functions over to the main contracting organization at the contracting headquarters. As needed, contracting officers and FAST teams will be maintained to continue contracting requirements. As the main element redeploys, a team of contracting personnel will remain in the area of operations until contracting requirements cease and ongoing procurement activity is closed out.

2-3. Theater Responsibilities.

2-3.1 Department of the Navy. In the event that the Navy serves as the lead service component in the theater, the Assistant Secretary of the Navy (RD&A) (BMA) will appoint the theater Head of Contracting Activity (HCA). The theater Head of Contracting Authority (HCA) as appointed by ASN (RD&A) (BMA) implements operational plans based upon instructions from the ASN (RD&A) (BMA) and the Deputy Assistant Secretary of the Navy (Procurement).

2-3.2 Contracting Theater Command. The HCA will be a Flag Officer. The HCA provides overall guidance throughout the contingency and acts as the approving authority as stipulated by the Federal Acquisition Regulations (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), and Navy Acquisition Procedure Supplement (NAPS).

Additional responsibilities of the HCA are:

- a. Monitor plans originating from Navy Staff.
- b. Oversee processing of deviations, waivers, and special authorizations.
- c. Approve warrants for contracting officers and purchasing agents.

2-3.3 Contracting Commander. The Contracting Commander will be delegated specific responsibilities by the HCA. Additional responsibilities of the Contracting Commander include:

- a. Notify subordinate commands and deploy Forward Area Support Teams (FAST).
- b. Coordinate with Naval Supply Systems Command (NAVSUP) to deploy qualified contracting personnel under contingency conditions from divisions and commands as needed.
- c. Develop contracting regional offices and ensure contracting personnel are deployed forward.
- d. Establish policies and procedures for developing, reviewing, and managing the contingency contracting process. This includes administrative plans to control documents, maintain records, and conduct audit trails of procurement actions for small purchasing (imprest funds, SF 44s, credit cards, etc.) as well as large contracts.

e. Coordinate inner-command agreements detailing contracting support relationships between TYCOMs and other U.S. Military Services. This would include approving joint service contracting whether the function would be a means of supporting remote Navy units or establishing a joint main element for contracting purposes.

f. Monitor procedures and appointment of contracting officers and ordering officers.

g. Coordinate operational plans or requirements originating with Navy Staff.

h. Process deviations, waivers and special authorizations.

i. Review Host Nation Support (HNS), Status of Forces, and Assistance in Kind Agreements or any treaties which may provide:

(1) Billeting,

(2) Food, water and ice,

(3) Transportation, and

(4) Utilities (to include communications).

j. Establish policies and procedures for Non-Appropriated Fund (NAF) contracting support.

k. Ensure automation for contracting is on-site for the main organization as well as forward offices to facilitate requisition document controls, priority processing, reporting procedures, standard use of specifications for common and repetitive requirements, and a means of expediting accurate application of clauses and provisions.

1. Provide input to Theater Command for accountability policy of contracted property (leased and purchased).

2-4. Peacetime Responsibilities. Contracting personnel will be either in place (active duty or civilian), or already performing contracting duties available for mobilization (Naval Reserve). Contracting personnel must coordinate with support personnel from the logistics arena.

2-5. United States Naval Reserve Personnel. U.S. Naval Reserve (USNR) personnel should be provided every opportunity to become proficient in the procurement area and more specifically, in procurement activities in support of contingency operations. To accomplish this, Active Duty for Training (ADT) should be developed to qualify reserve personnel to deploy as needed to sites of contingency operations or to replace deployed active duty components.

2-6. Organizational Model.

2-6.1 General. This describes the contingency contracting organizational model consisting of four divisions or branches (Support, Contracts, Contract Administration and Simplified Acquisitions). Although this model describes normal functions to be performed by contracting, commander's assessments of mission, workload analyses, position management, and policies may identify different arrangements. If mission, workload, and span of control considerations do not support establishment of the model organization, the model should be adapted to the local situation.

2-6.2 Contracting Commander. The contracting commander commands all contracting activities assigned or attached to the contingency area and accomplishes missions assigned by the HCA and other competent authorities. Typically the Office of the Commander coordinates, plans, organizes, staffs, directs and controls the activities of the Contracting Command.

2-6.3 Chief of the Contracting Office. The chief plans, directs, and supervises purchasing and contracting for supplies, services, and construction for assigned customers. This office will typically:

- a. Approve actions requiring approval at a level above the contracting officer.
- b. Review contractual actions to assure compliance with statutes and regulations.
- c. Develop and execute a program to ensure maximum competition.
- d. Ensure a positive program for audit tracking.
- e. Accomplish internal reviews to ensure regulatory and procedural compliance.

2-6.4 Support Division. This division provides support services required to ensure efficient contract execution and administration. It will typically:

- a. Administratively support the contracting office. --
- b. Maintain records, process data, and prepare reports of procurement actions as required.
- c. Provide status reports and follow-up data to management.
- d. Perform cost and price analysis and on-site review of contracting documents. Identify areas for prevention of fraud, waste, and abuse for referral to proper authorities, and provide support for property administration.

2-6.5 Simplified Acquisition Division. This division performs the functions of planning, soliciting, executing and administering supplies, services, and construction procurements using simplified acquisition procedures. It will typically:

a. Initiate and complete appropriate purchase actions for the acquisition of supplies and services and construction needs to support all assigned customers.

b. Provide data for use in preparing procurement action reports.

c. Prepare management reports as required. (see DD Form 1057).

d. Resolve all adverse actions associated with simplified acquisition requirements.

e. Close-out completed purchase actions and dispose of purchase files.

f. Operate an imprest fund.

2-6.6 Contracts Division. This division performs the function of planning, soliciting and executing supplies, services and construction procurements utilizing other than small purchase and other simplified purchase procedures. It will typically:

a. Initiate and complete appropriate contracts for the acquisition of supplies, services and construction requirements to support all assigned customers.

b. Assist customer activities in preparing Statements of Work (SOW) and purchase descriptions; executing advance acquisition planning to ensure efficient and economical use of allotted time and funds.

c. Support the resolution of all adverse actions associated with acquisition requirements above the Simplified Acquisition Threshold (SAT).

d. Provide data for use in preparing procurement action reports (DD Form 350).

e. Prepare management reports as required.

2-6.7 Contract Management Division. This organization is established primarily to provide an effective and efficient organization for administration and the management of contracts. All contracts, other than small purchases, are candidates for transfer to this division. Service contracts require intensified contract administration and will be transferred to this division. This organization will typically:

a. Administer contracts awarded by the contracts division from award to close-out.

b. Coordinate technical and administrative efforts to ensure the government's best interest is served when the customer receives the supplies and services established by the contract.

c. Prepare and issue contract modifications, administrative changes, and termination agreements.

d. Assist and prepare or issue the contracting officer's decisions, replies to Congressional inquiries, litigation documents, and cure or show cause notices as required.

e. Appoint CORs and oversee the quality assurance, surveillance and evaluation of contract performance.

f. Close-out completed contracts and dispose of contract files.

CHAPTER 3

PLANNING

3-1. General. The contracting officer must have a basic understanding of legal authorities, funding practices, and duties of contingency contracting. This chapter will focus on preplanning and preparatory actions for establishing local contracting capability. While not intended to be all inclusive, it will provide the contracting officer a good foundation and better perspective on the role of contingency contracting.

3-2. Predeployment Planning and Preparation. Advance planning and preparation has proven to be critical to enable a contracting officer to hit the ground running. The areas addressed below provide a basic plan and package that contracting personnel must incorporate into a usable contingency plan. In the event of a deployment, the Head of the Contracting Activity (HCA) will specify organizational requirements tailored to the mission and location.

3-2.1 Personal and Administrative Preparations. The following is a list of required documents contracting officers and contracting personnel who are likely to be deployed in the event of a contingency operation should possess in order to initiate contingency contracting activities:

a. Official passport plus 6 to 10 extra photos for visas. This is required to move from country to country if necessary.

b. Blanket travel orders with variations and Foreign Flag Carrier authorized on TDY orders. This avoids delays when traveling through unprogrammed areas.

c. Authorization to hire/rent special conveyance.

d. SF 1402, Certificate of Appointment as a Contracting Officer, with authority equal to potential responsibilities. (Appendix A)

e. A prepacked kit of regulatory guidance, forms, supplies, and equipment. (Appendix B) The nature of these items may require longer lead times to acquire than might otherwise be available prior to deployment. Therefore, these items should be preassembled and ready to go on an immediate basis.

f. International Driver's License.

g. Civilian clothes. In some instances, military uniforms may not be advisable. The chief of the contracting office will provide further instructions regarding the wearing of uniforms.

h. Imprest fund orders. These orders should be obtained in advance making them contingent on an actual deployment. This will expedite the establishment of an imprest fund buying for immediate

requirements. Note that as of 1 October 1997, specific Under Secretary of Defense authorization will be required for the establishment of imprest funds for OCONUS operations.

3-2.2 Requirements Lists and Site Surveys.

a. The contracting officer should have a basic understanding of contingency requirements and contingency plans for the supported units. Contracting officers can expect to support engineers in the purchase of construction materials and services contracts, contract for stevedoring services, supplement transportation requirements with rental vehicles, and make arrangements so that deployed personnel will have billeting, latrine and refuse service, and showers. A more complete list is in Chapter 7.

b. The contracting officer may have access to site surveys which will assist in identifying potential contractors for providing items on the requirements list. However, this is not feasible in all cases. When a site survey is not available, the contracting officer should create a contractor database as requirements are successfully purchased. In addition, maps can be marked to show locations of proven contractors. This is important so newly assigned contracting officers and personnel will not have to reestablish new sources. Local telephone directories are also an invaluable tool.

3-3. Deployment.

3-3.1 Advance Party. A contracting team will normally arrive ahead of the main deployment force to establish a procurement activity able to respond to initial requirements as the first troops arrive.

3-3.2 Typical Organizational Structure. The advance party will be supplemented with a support staff of contracting personnel to establish the contracting organization within the first 30 days of the initiation of the contingency operation. Personnel within this deployment will coordinate with agencies that will assist in the contracting function (legal advisors, comptroller and funds certification officer, and command group for the theater headquarters.)

3-3.3 Support Items Required Upon Arrival. Contracting officers should be prepared to take care of their own needs immediately upon arrival. The following items are essential in supporting an effective contingency contracting organization:

a. A vehicle (assigned or rented) for making purchases, establishing supply sources, and picking up supplies in the local market.

b. An interpreter/guide. This person should not only be bilingual, but familiar with the local market area as well. (Contact the local U.S. Embassy, if possible, for assistance.)

c. A fixed location from which to operate.

d. If possible, the contracting officer should attempt to make arrangements for some type of communications network, such as mobile radios and telephones, to ensure customers can contact the contracting officer on the road.

e. Arrange for a disbursing officer to accompany the contracting officer with local currency for local purchases when necessary.

f. Obtain maps and when available, phone books of the surrounding areas of operations.

3-3.4 Purchasing Rules. The contracting officer will develop procedures that will best support the customer's needs. This will entail establishing a set of rules for customers to follow when submitting requirements. The rules should include instructions on purchase descriptions, funding, approval channels, contract processing, pickup and delivery procedures, and quality control responsibilities. The rules should also discuss consolidating requirements, where possible, to avoid unnecessary trips to the contracting office when the deployed units are remote. The main thrust of the plan is to familiarize customers with the location, mission, and procedures to expedite purchasing and service contracting.

3-3.5 Locating Sources. One of the most difficult problems for the contracting officer at an unfamiliar deployment site is locating capable contractors to fulfill unit requirements. The following are suggestions a contracting officer may use to solve this problem:

a. Investigate the possibilities of initiating a contract for husbanding services with a local source to assist in the identification of and conduct of business with local vendors.

b. Use the knowledge of an interpreter/guide regarding local businesses. This person is a logical first choice for obtaining sources; however, the contracting officer must be careful to avoid a conflict of interest with local contractors and the translator.

c. The U.S. Embassy or consulate (if available) can be an excellent source of information. The defense attaché office in most embassies or consulate can help with currency conversions and storage of funds, as well as providing a source list of reputable contractors. In addition, the Embassy General Services Officer (GSO) may be able to provide some contracting support particularly if the contract is to be written with the host country.

d. Site surveys are an excellent tool to speed up the contracting process. Contracting officers should add sources to the site survey list as they become known.

e. There are a multitude of ways of identifying sources. Some successful ways have included contacts with the Chamber of Commerce (or equivalent), business associations, local clergy, citizens, and local government leaders such as the mayor. Consider running advertisements in local newspapers describing expected general requirements. The major hotel chains overseas have business offices which can help locate local sources of supplies. In addition, there is nothing wrong with asking other contractors where certain requirements might be obtained. The local yellow pages are an invaluable source of information on local firms.

f. A "bid board" must be posted in a public place at the contracting office for the purpose of displaying solicitations and announcing awards and proposed contracts.

g. Coordinate and assist local trade associations in disseminating information to their members.

h. Since most major U.S. deployments receive considerable publicity, many firms with international offices will contact you to offer their goods and services. Also, it is recommended that you advertise large procurements in newspapers within the area of operations.

3-4. Operations Set-up.

3-4.1 Establishing the Contract Office.

(1) Establish a central, but separate, location with adequate and secure floor space that is near your customers, other contracting support functions, staff judge advocate, finance, comptroller, and logistics activities. Establish minimum office requirements and start by consulting with the command security officer. Although it is desirable to have easy access to, and be accessible to, potential suppliers, security considerations may require that the contracting office be located within a secure perimeter. The location of the contracting office depends on the tactical situation and logistical scheme of operations. Contracting officers should be with their customers. If security allows for it, a consideration is to establish the contracting office in or near a first-class local hotel which normally caters to western business people. This facilitates access to FAX, typing, translators, telephones, copiers, and provides a certain degree of security. It will also help contractors locate the office for business purposes. Office equipment consisting of desks, chairs, file containers, and at least one safe, are necessary. The office must be able to be secured if any cash is maintained.

b. The initial response from local contractors may be immense. A screening of contractors should help establish sources and their capability. A system for business hours, waiting areas, and making appointments with contracting officers must be the first order of

business. A clearing activity for screening potential contractors, supported by the host nation and civil affairs personnel is vital.

c. Contact existing military and U.S. Embassy officials in the vicinity and exchange contracting information.

3-4.2 Role of the Senior Contracting Officer or Head of Contracting Office.

a. Attend all logistics and engineering key meetings, and establish communications with division officers and commanding officers. Also, attend daily intelligence/operations summaries meetings.

b. Provide early and frequent briefings to the commander, his subordinate commanders, logisticians, and engineers.

c. Identify the who, what, and when of critical requirements. Verify how requests will be approved through the logistical channels.

d. Stay informed and in the information loop.

e. Establish contact and coordination with finance, comptroller, host nation, civil affairs, legal, and logistics organizations.

3-4.3 Mobility on Site.

a. Obtain transportation and communication. Request, rent, lease, or buy vehicles. Establish commercial and DSN telephones, DDN electronic mail capability, FAX, and radio communications.

b. Secure local telephone books or other reference data for locating sources of services and supplies.

c. Obtain interpreter(s), if required.

3-4.4 Learning the Local Market.

a. Locate local sources and document the information including the point of contact, supplies and services available, and responsiveness to help develop a bidders mailing list.

b. Obtain maps of the surrounding areas of operations and determine the availability of common items of supply or services to help construct market survey packets.

3-4.5 Redeployment.

a. Start redeployment planning as soon as you deploy.

b. All payments must be finalized and closed out, and appropriate documentation of actions should be on record.

CHAPTER 4

DUTIES AND RESPONSIBILITIES

4-1. Introduction. Initial procedures and responsibilities required in purchasing under contingency conditions rest with the requiring activity.

4-2. Requiring Activity Responsibility for Local Purchase Requests.

a. Personnel responsible for requirements identification will:

(1) Submit NAVCOMPT Form 2276, Request for Contractual Procurement or equivalent requisition document. (See Appendix E)

(2) Correctly complete item description and end item application on the request form.

(3) Ensure the commander or designee of the requesting activity has reviewed the request for validity and signed.

(4) Verify nonavailability by MILSTRIP requisition.

(5) Ensure the requirements are not split to avoid a local purchase dollar limitation.

(6) Obtain appropriate funding.

b. In all cases, two basic requirements must be met. First, there must be a good description of the item or service to be acquired and, secondly, there must be a certification of funds. For a small dollar supply purchase, a good description might include a name brand description, part number, a picture of the item if possible, or a sample of what is needed so that the contracting officer can show it to potential vendors. This can be particularly useful when there are difficulties encountered in adequately communicating the requirement. Also required is the name and organization of the customer and the point of contact. For larger goods and services, the contracting officer will need a comprehensive Statement of Work and may, dependent upon the nature and complexity of the requirement, require a nominee to serve as COTR. A good Statement of Work should include a detailed description of what is expected from the contractor; as "performance oriented" as possible. Preparation instructions for NAVCOMPT Form 2276 are contained in Appendix E.

4-3. Contracting Officer's Duties and Responsibilities. The majority of requirements presented to the contracting officer will fall under the simplified acquisition threshold and will have a short suspense. Contracting officers may find themselves more involved in all types of procurements than in a peacetime role.

4-3.1 Standards of Conduct and Conflict of Interest. Maintaining standards of conduct and conflict of interest policies may prove to be more challenging, particularly over-seas. Issues or questions which may arise should be addressed with the standards of conduct legal advisor. Duties that may violate conflict of interest (that is, verifying requirements, certifying funds, receiving, and paying for goods and services) should not be given to the contracting officer. Additional duties such as Article 32 officer, reports of survey, survivor assistance officer or escort, etc., should not be given to the contracting officer.

4-3.2 Management. A bookkeeping system which will establish an audit trail of all purchase requests and their status must be maintained. These critical records keep commanders informed and ensure each rotation of contracting personnel has a history of previous procurement activity.

4-4. Buying Supplies.

4-4.1 Purchase/Receipt/Delivery. The contracting officer can expect an expanded support role during contingency operations. Because reliable telephone service may not be available, vendors may have to be contacted in person. In addition, many of the initial business transactions will be "cash and carry," conducted by the contracting officer or purchasing agent and an Agent Cashier.

4-4.2 Paying for Supplies. The Disbursing Officer/Agent Cashier, nominated by the commander and appointed by the finance and accounting officer, is responsible for making payments for purchases. Chapter 7 entitled "Funding Issues" entails specific duties and responsibilities of paying agents.

4-4.3 Referrals. The contracting officer may receive a number of purchase requests for items which are not available in the immediate area but may be available at a location serviced by another contracting office. If the deployment base has routine airlift to and from another military installation, the requirements may be satisfied by referring the purchase request to another contracting office. Open referrals must be documented and the action followed until completion.

4-4.4 Audit Trail. The importance of accurate purchase documentation cannot be over emphasized. Since normal checks and balances may not exist in the initial phase of the contingency, contracting officers must maintain accurate data on each purchase to answer any questions during and after the purchase.

4-4.5 Typical Supply Requirements. While an accurate list of requirements at every contingency location is not possible, it is useful to have an idea of what was required during previous deployments. This can help in determining types of catalogs (preferably those with pictures) contracting officers should include in contingency kits. The pictures are a means of showing

contractors what is needed in the event of a language problem. Listed below are some requirements gathered from previous exercises:

- a. Construction Materials:
 - (1) Sand, gravel, sandbags,
 - (2) Cement,
 - (3) Pipes, valves, fittings,
 - (4) Lumber, plywood,
 - (5) Electrical parts, and
 - (6) Plumbing supplies.
- b. Administrative Supplies:
 - (1) Paper, pencils and
 - (2) Other office supplies.
- c. Replacement Parts:
 - (1) Vehicles,
 - (2) Common equipment (for example, fans, ovens, heaters, air conditioners, etc.), and
 - (3) Heavy construction equipment.
- d. Medical Supplies:
 - (1) Bandages, gauze,
 - (2) Splints,
 - (3) Medicines, and
 - (4) Medical Equipment.
- e. Subsistence (See Note):
 - (1) Water - Potable and non potable,
 - (2) Fresh fruits and vegetables, and
 - (3) Bread.

NOTE: Only those items of subsistence that have prior clearance by the support veterinarian may be purchased. Consideration should also be given to local cultural issues and customs.

4-5. Buying Services and Construction. Buying services and construction is usually more complicated than buying supplies. It is much simpler to describe a product than to describe a service or level of effort needed to satisfy a requirement. Because of these limitations and the ongoing nature of the work involved, the following actions should be taken in every case:

a. As discussed previously, detailed Statements of Work (SOW) must be prepared by the requiring activity. In many cases, the Statement of Work will have to be written bilingually to ensure complete understanding by both the contractor and U.S. Government representatives. A sample format for SOW(s) of basic requirements is included under Appendix C.

b. A Contracting Officer's Representative (COR) must be available from the requiring activity to monitor performance.

c. In repair contracts, the contracting officer should require a hand receipt when government property is given to a contractor for repair services.

d. Service and construction contracts must be in writing, not only for the contractor's benefit, but for the Navy's.

e. Contracting officers shall provide a Memorandum of Negotiation to document how a fair and reasonable price was determined. A Business Clearance Memorandum (BCM) in lieu of a negotiation memorandum is necessary for all negotiated contract actions which exceed \$500,000. (IAW NAPS 5210.690-2).

f. Appropriate construction and service provisions must be included in the contract. Additionally, if supplies are being procured as a part of either type of contract, the applicable supply clauses must be inserted.

g. The contracting officer, with the COR, must establish a system for monitoring contractor performance and progress.

h. Service and construction requirements in past operations include:

(1) Services:

- (a) Bilge Barges,
- (b) Billeting/Facility rentals,
- (c) Fuel,
- (d) Water,
- (e) Cranes,
- (f) Nontactical vehicle rentals and maintenance,

- (g) Commercial communications services (if available),
- (h) Interpreter service,
- (i) Civilian labor service,
- (j) Utilities services,
- (k) Computer, typewriter, calculator and office equipment repair,
- (l) Furniture repairs,
- (m) Radio repairs,
- (n) Emergency tow services,
- (o) Refuse collection,
- (p) Latrine services,
- (q) Laundry service,
- (r) Stevedore services,
- (s) Shower/bath services,
- (t) Waste oil disposal services, and
- (u) Material Handling Equipment (MHE) lease and repairs.

(2) Construction:

- (a) Paving,
- (b) Revetments,
- (c) Fences/barriers,
- (d) Temporary structures, and
- (e) Maintenance/repair of existing structures.

4-6. Contract Management.

4-6.1 Contract Administration. The contracting officer may be limited as to the number of visits to the site of contract performance because of geographic limitations and considerable workload; and therefore, is dependent on a contracting officer's representative (COR) or assistance. CORs conduct site visits to ensure that service and construction contractors are performing in accordance with the terms of the contract. Every effort must be

made on the part of the COR to avoid an action or open dialogue with the contractor during site visits that can be interpreted as an oral change order (a type of "constructive change" to the contract). However, if such changes occur, the contractor can submit a claim (if agreement cannot be reached it will be handled as a dispute). In instances where the COR determines contractor performance must be halted, the COR will request that the contracting officer issue a stop work order.

4-6.2 Approving and/or Making Payments. Any ongoing construction or service contract may require progress payments. A progress report is needed from the COR stating how the contractor is performing and the percentage of work completed. This information should be well documented so the contracting officer can determine the amount of the progress payment. Where possible establish pre-agreed stages for in-process reviews (IPRs); such as foundation poured, inspected, and approved would be equal to a progress payment. These periodic reports will also be used to determine final settlement when the contract is closed out.

4-6.3 Contracting Officer's Representative (COR). (See Appendix H)

a. CORs are generally subject matter experts or specialists in some specific area. They advise the contracting officer regarding details of the supplies or services purchased.

b. CORs monitor contractor compliance and assist in administration of the contract. The COR plays a key role in the government's quality assurance responsibilities and typically monitors the progress of, inspection, and acceptance of supplies or services delivered to ensure timeliness, quality, and conformance to specifications.

c. Contracting officers will thoroughly brief assigned CORs as to the scope of their responsibilities and review the requirements of the contract to ensure the COR understands the requirements and standards. A COR booklet should be provided to all CORs as a daily reference of their duties and procedures.

d. CORs are nominated by the requiring activity and appointed in writing by the contracting officer. CORs are limited to the authority stated in their letters of appointment and will not have the authority to change the contract.

CHAPTER 5

LEGAL AUTHORITIES, LIMITATIONS, AND POLICY

5-1. Introduction. This chapter addresses various authorities and limitations affecting contracting officers during contingencies. Contracting actions completed during these situations shall comply with statutory requirements, executive orders, and regulations unless a deviation is authorized.

5-5.1 Assumptions.

a. The environment for contracting is worldwide. Principles of contingency contracting are applicable to all contingency missions over the entire range of a given operation with considerations for short as well as long-term notification of mobilization.

b. Because of the urgent/high priority nature of most requests for supplies and services, reduced lead-times and expedited delivery requirements can be expected.

c. Deployed contracting personnel will have authority to conduct business with foreign governments, commercial firms, and other forces in the theater where assigned or deployed.

d. Normally, contingency operations will be joint, combined, or unified operations under the command and control of a unified Commander-in-Chief (CINC) and joint or coalition headquarters such as NATO or the United Nations.

e. The joint task force commander will activate an acquisition board to coordinate service acquisition activities and to integrate the acquisition flow with the overall theater logistics operation.

f. Existing U.S. Department of Defense contracting offices and contracts in the area of operations will be utilized wherever possible.

5-1.2 Limitations.

a. Host Nation Support (HNS) or existing supply systems will not be replaced by contingency contracting.

b. Applicable agreements or lack of any U.S. international agreements such as Host Nation (HN), interservice, status of forces, and other authoritative agreements in the theater of operations may limit the contracting officer's ability to satisfy some requirements.

c. Legal review of all acquisition actions with dollar amounts of \$100,000 or more is required. Legal review of acquisitions under this amount should be conducted to the maximum extent possible in coordination with legal counsel.

d. United States public laws and Federal Acquisition Regulation (FAR) and the Defense FAR Supplement (DFARS) are not revoked or suspended by contingencies unless specifically exempted. Acquisition personnel must therefore comply with federal law and applicable regulations in contingency contracting.

5-2. Legal Authorities Under Emergency Conditions.

a. Since many of your requirements will fall within the modified threshold it is important to not that for contracts to be awarded and performed or for purchases made outside the United States in direct support of declared military contingency operations, the simplified acquisition threshold is raised to \$200,000. (10 U.S.C. 2302.)

b. In addition, Congress has enacted several laws recognizing the Government must respond quickly in times of crisis. There are currently over 350 laws which expand and/or restrict legal authorities affecting all functions of the government. While there are several laws which affect contracting, three have the greatest impact on contingency contracting in foreign theaters of operation. They are:

(1) The "National Defense Contracts Exempt From Certain Statutory Limitations Act" 50 USC 1431-1435, which authorizes the DOD to enter into, modify, or make advance payments on contracts in the interest of the national defense without regard to certain statutory limitations.

(2) "Exemptions of Certain Purchases and Contracts From Formal Advertising Requirements" as contemplated by the Competition in Contracting Act of 1984 (CICA) 10 U.S.C. 2304(c)(2) authorizes the agency to forego full and open competition when its need for property or services, "is of such an unusual and compelling urgency the United States would be seriously injured..." This is the authority a contracting officer would most likely use (for purchases over \$200,000) since justification and approval can be processed after the fact. Another authority from CICA which may be used, particularly during exercises, is 10 U.S.C. 2304 (c)(4) entitled, "International Agreement." This authorizes using other than full and open competition "when a contemplated acquisition is for services to be performed, or supplies to be used in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited." -- (DOD FAR SUP 225.801)

(3) The Defense Resources Act is designed to provide the authority necessary to meet various contingencies. As such, contracting officers should be notified before deployments exactly what has been authorized before using this authority.

c. In addition to implementing exceptions based on statute, the FAR and DFARS provide additional exceptions under emergency conditions. Where justification exists, FAR procedures permit

expedited contracting actions to satisfy urgent and compelling requirements. Such circumstances do not provide a blanket waiver of regulatory requirements. The following are examples of where existing authority can be used expedite contracting actions:

(1) Limiting sources in solicitations when an urgent and compelling requirement precludes full and open competition. FAR 6.302-2(a)(2).

(2) Providing exceptions for issuing synopses of proposed contract actions when it would delay award and injure the government. FAR 5.202(a)(2).

(3) Awarding letter contracts and other forms of undefinitized contract actions to expedite the start of work. FAR 16.603-2.

(4) Allowing for the use of oral solicitations. FAR 13.106(b)(2).

(5) Requesting authority to award emergency requirements before resolving a protest against contract award. FAR 33.104(b)(1)(i), FAR 33.105(d)(1)(ii).

(6) Requesting authority to continue performance notwithstanding receipt of protest after award prior to resolution of the protest. FAR 33.104(c)(2).

(7) Allowing for the incurrence of pre-contract costs when necessary for a required delivery schedule to be met. FAR 31.205-32.

d. Additional FAR exceptions:

<u>REFERENCE</u>	<u>SUBJECT</u>	<u>EXCEPTIONS ALLOWED</u>
5.202(a)(12)	Synopsis	Does not apply overseas.
5.202(a)(2)	Synopsis	Not applicable if unusual and compelling urgency exists.

5.202(a) (3)	Synopsis	International agreement specifies the source of supply.
6.001(a)	Competition Requirements	Does not apply to small purchases under \$200,000. (See part 13 for small purchase competition requirements)
25.102(a) (1)	Buy American Act	Not applicable for items purchased outside the U.S.
25.302(b)	International Balance of Payments Program	Acceptable to buy foreign under \$25,000. See FAR cite for further exceptions.
25.501	Payment in Local Currency	Foreign contracts should be priced and paid in local currency, unless contracting officer determines it to be inappropriate.
25.703	Restrictions on Foreign Purchases	Authorized to buy certain items from Vietnam, Cambodia, North Korea and Cuba in emergencies.
28.102-1(a)	Bonds	Miller Act 40 U.S.C. 270a-f and FAR Supl, can be waived by the contracting officer for overseas construction.

e... DFARS/NAPS Exceptions Allowed:

<u>REFERENCE</u>	<u>SUBJECT</u>	<u>EXCEPTIONS ALLOWED</u>
37.104(b) and 37.104(70) (I) (6)	Personal Services	Pursuant to 5 U.S.C 3109 if advantageous to the national defense (Required D&F) .

1.670-3(a)	Ratifications	Can be delegated by the HCA
1.699	Contracting Authority of Other Personnel	Imprest fund purchases IAW FAR/DFARS 13.4 Fuel, oil, and emergency repairs, SF44, and credit card purchases IAW FAR 13.505-3.

Note: Contracting officers should review these exceptions to fully understand their application and use. Although deviations and exceptions to regulatory and statutory procedures cannot be practiced during field exercises, contingency contracting can be applied to field conditions. There are urgency exceptions that apply during deployment. It is important to remember that requirements are driven by commanders and their logistics officers, not procurement personnel.

5-3. Local Purchase Policy For Outside Continental United States (OCONUS).

a. Local purchase may be an option for any centrally managed, commercially available, Navy assigned item provided such action is judged to be in the best interest of the government in terms of a combination of quality, timeliness, and cost that best meets the requirement. Local purchase may be used provided:

(1) Demand data will be recorded.

(2) The purchase will be limited to the immediate requirement but not to exceed 30 days of supply.

b. The following types of items are normally excluded from local purchase:

(1) Items directly related to the operation of a weapon or weapon system (e.g., classified or controlled electronics).

(2) Items with special security characteristics (e.g., cryptic, classified), and

(3) Items of a dangerous nature (e.g., explosives, ammunitions).

CHAPTER 6

INTERNATIONAL AND UNITED STATES RELATIONS

6-1. General. Contingency contracting requires an understanding of the legal aspects, funding issues, duties and responsibilities of procurement personnel, their inter-relationships with support staff and advisors, and deployment preparation. The ability to deal with people who have vastly different cultures, backgrounds, perspectives, and, most importantly, business practices is another aspect of contingency contracting that will have considerable impact on your operation. There may be deployments to remote areas where there is little or no American presence and the structured process of conducting business by the United States may take on new meaning. Not to be overlooked is the potential for setting up contingency contracting offices within the U.S. for emergencies; possibly in areas where local citizens are unfamiliar with U.S. Government procurement procedures and whose local economy has little direct business from federal agencies.

6-2. Negotiating Practices.

a. Feedback from field exercises and recent conflicts has helped educate contracting personnel on several negotiating practices. Much of the business conducted by contractors overseas is by negotiation. They will negotiate most prices. The contracting officer's bargaining position is enhanced when the product or service is available elsewhere or when the requirement is not urgently needed. Local contractors know their immediate competition and will conduct business accordingly. In addition, you may be competing with other services or nations for limited products and services. Prices may be higher at the start of an operation due to shortages and great demand. Transportation and delivery may be hindered, depending on the emergency and location, causing costly delays.

b. Contracting personnel should be conscious of the fact that many business cultures expect "kickbacks", "finder's fees", exchange of gifts, or other gratuities that are illegal for U.S. personnel to provide or accept. Contracting officers must be vigilant to ensure U.S. Commanders, logistics and engineering personnel, and ordering officers do not violate standards of conduct as prescribed in FAR Part 3 (Improper Business Practices and Personal Conflicts of Interest) and DOD 5500.7-R, Joint Ethics Regulation. Whenever an improper business practice is required, the contracting officer shall document the file and notify his/her superior immediately of the situation. Whenever possible, the contracting officer should have other operating forces personnel witness the breach of regulation and confirm the necessity of the action.

6-3. Oral Agreements. It is prevalent in many countries to conclude an agreement or contractual understanding with nothing more than a handshake. This may occur at the outset of the

contingency, but should be quickly followed with a written contract. Contracts written in English may be viewed with suspicion and sometimes anger due to a lack of trust in governments other than their own. Signing a contract may become a challenge. When a local businessman or provider refuses to sign contractual documents, the purchasing agent or contracting officer must document the file with a Memorandum for the Record (MFR) or annotate the SF 44, SF 26, SF 30, and SF 33. (See Appendix B) Contracting officers should always remember to keep oral communications simple and straight forward. Once a contract has been performed and the contractor has received payment, relations should improve. Despite this, local customs may predominate in conducting business.

6-4. Competition. Competition is essential in ensuring a fair and reasonable price. Market sources can be developed by posting and making solicitations available at a common bid board. Care must be taken not to relax restrictions that ensure competition in order to expedite contingency actions. Competition will aid in obtaining fair prices and market sources will develop through readily available solicitations. However, if only one responsible source is available, use that justification for a sole-source procurement.

6-5. Local Business Practices.

a. Local business practices, a less than stable environment, and the contractor's lack of knowledge of our payment procedures may require contracting officers to arrange for immediate payment. Immediate payment can be made through the imprest fund, check or credit card. Payment for services may be appropriate at the conclusion of each workday, work-week, or upon each specified period of performance. Responsiveness of contractors is directly attributed to the timeliness of payments. Advance payments are the least preferred method of payment and are not advisable. Contractors learn from each other and advancing pay to one may set a precedent. Also, recouping money or forcing a contractor to perform according to contract standards through negotiation and litigation after an advance payment is made may not get the mission accomplished in a timely manner.

b. Local business practices of bargaining, hours of conducting business, and business on weekends or local holidays must be considered in the daily operations of the contract activity when determining delivery of the supplies or services.

6-6. Host Nation Support.

a. Cooperation by Host Nation (HN) authorities and personnel will enhance the contracting officer's ability to fulfill the contingency contracting obligation. Contact with local authorities and higher headquarters will help determine whether there is HN support available. Before deployment, coordination with legal assistance, civil affairs units, and the Defense Intelligence Agency will also be useful as possible sources for identifying

contractor information in the area. A liaison officer should have knowledge of the HN laws, regulations and military command structure. He or she should ensure maximum coordination with the HN to initiate on-site surveys. The liaison officer can be located via the Roster of Key Security Assistance Personnel Worldwide published by the Defense Security Assistance Agency.

b. Reconnaissance visits to proposed contingency sites will identify what support can be provided by the Host Nation. It must be emphasized to all parties that any preliminary joint site survey/reconnaissance visit is a military logistic liaison effort only and not for contractual arrangements.

c. To facilitate the contracting process with the HN, all requirements should be prepared in a consistent format. This reduces confusion and delays in later negotiations with the HN.

6-7. Ethics. Especially for procurements conducted in foreign countries, contracting officers should ensure that the appropriate ethics regulations are observed. When ethical or procurement integrity (FAR 3.104) requirements conflict with local practices, contracting officers should explain to contractors the restrictions which are placed on U.S. procurement officials.

CHAPTER 7

FUNDING ISSUES

7-1. Introduction. Under peacetime conditions, one of the responsibilities of the Financial Control Officer is to certify all purchase requests prior to processing by the contracting office. The contracting officer relies upon that certification to ensure that appropriated funds are properly allocated to the requirement. Under contingency operations, the issue of funding becomes more involved due to the urgency and source of requirements.

7-2. Finance and Contracting Relationships. Contracting officers must coordinate with the finance and accounting officer to ensure the commitment, obligation and payment of funds for supplies and services is made in a timely and accurate manner. Regardless of the method of procurement (i.e., SF 44, imprest fund, blanket purchasing agreement, purchase order, contract, or purchase/bank card), contractors conducting business in a hardship environment may warrant immediate payments in the name of good business. (See Appendix I & N)

7-3. Comptroller Support Relationships.

a. The Financial Control Officer from the requiring activity or the Office of the Comptroller will verify, through signature certification, the availability of appropriate funds or will certify bulk funding for multiple purchasing. In accordance with the Anti-Deficiency Act (31 USC 1341), contracting officers are prohibited from purchasing or contracting without sufficient funds prior to initiation of the procurement. The funds certification officer and contracting officer must work closely during any type of contingency to ensure that funds are appropriate, valid, and sufficient.

b. The bulk funding concept is the system whereby the contracting officer receives authorization from the certifying officer to obligate funds on purchase documents against a specified lump-sum reserved for that purpose over a specified period of time. Rather than obtaining individual obligation authority on each purchase document, funds are pre-committed. Strict control of the bulk funds is necessary to preclude the misuse of funds. Bulk funding is a standard practice for use of the purchase/bank card.

7-4. Funding Procedures. Accounting classification codes are required on all contractual documents.

7-4.1 Request for Contractual Procurement. The funds certification officer certifies funds are available on the NAVCOMPT Form 2276. The approved funds are an estimate of the amount which may be obligated by the requesting activity for a specific period of time and designated purpose. If the contracting office is issued a bulk funded NC Form 2276, the contracting office is responsible for maintaining a record of obligations and the remaining balance of funds on the reverse of the form. NAVCOMPT Form 2276, Request for Contractual Procurement (See Appendix E).

7-4.2 Other Forms. Contracting officers may receive purchase requests from other services or agencies on a DD Form 448 or DD Form 448-1, Military Interdepartmental Purchase Request (MIPR). These are "one-time" funding documents which can be used only for the purposes stated on the form. These forms require funding certification by the funds officer or designee prior to purchase. Requests for purchases under a bulk funded Government purchase/bank card do not require traditional agency purchase requests and may use established local procedures. In a contingency operation, Navy contracting officers should also become familiar with service specific procurement request forms such as the Department of the Army's DA Form 3953 and the Department of the Air Force's AF Form 9. (See Appendix F).

7-4.3 Imprest Funds as a Funding Procedure.

a. As of 1 October, 1997, imprest funds are not authorized for OCONUS operations except as specifically approved for contingency situations by the Under Secretary of Defense (USD) (see Naval Supply Systems Command policy letter 96-9). In theater CINC is authorized to approve the establishment of imprest funds. The number of imprest funds will be specifically approved in writing and shall be kept to a minimum. Normally only one imprest fund is authorized per unit or command. Exceptions to this general rule may be justified for isolated activities.

b. General guidelines for use of imprest funds for purchases made using simplified acquisition procedures are as follows:

(1) An imprest fund should only be used when considered advantageous to the government,

(2) The \$500 limit as specified in NAVSUPINST 4200.85 series is increased up to \$2,500 in support of contingencies, and

(3) The supplies or services are available for delivery within 60 days, whether at the supplier's place of business or at destination.

(4) The purchase does not require detailed technical specifications or technical inspection.

b. Imprest funds may not be used for the following:

(1) Payments (or advances) of salaries and wages,

(2) Cashing of checks or other negotiable instruments,

(3) Payment of public utility bills,

(4) Purchases from contractors or contractor's agents who are military personnel or civilian employees of the U.S. government,

(5) Repeated purchases from the same contractor when another method (i.e. BPA) would be appropriate.

7-4.4 Government-wide Commercial Purchase Card as Payment Method. The Government purchase card may be used as a payment method against any existing contract vehicle. The following payment procedures supplement the procedures for use of the card for purchases discussed in chapter 8-8.

a. The contracting or finance officer may authorize payment for awards issued via purchase orders, delivery orders, contract, or electronic commerce under the following provisions:

(1) Contract or order provisions allow for payment via the Government purchase card.

(2) Payment is against a single line of accounting data for each unique transaction. Contracts or orders citing accounting classification reference numbers (ACRN) are never appropriate for payment via the purchase card.

(3) Single purchase limits and billing cycle limits have been adjusted to reflect use of the card as a payment method above the authorized purchase limit.

(4) Contracts or orders issued which authorize payment via purchase card should be adequately marked as such to preclude potential duplicate payment by a U.S. paying office.

CHAPTER 8

CONTRACTING PROCEDURES DURING A CONTINGENCY

8-1. General. Two areas of concern are the requirement and the various contracting instruments available to the contracting officer.

8-2. Purchase Request Documents.

a. Purchase requests can be made on many different forms (DD Forms 1348-1, 1348-6, NAVCOMPT Form 2276, DD Form 448 are just a few). Regardless of the type of document, three requirements must be met:

- (1) A complete item description.
- (2) Certification of funds.
- (3) Citation of local purchase authority.

b. For purchase to be made under simplified acquisition procedures, a good description might include the item name, part number/stock number, a picture, or sample of the item (to show potential vendors), the customer's name and organization, and a point of contact. For services and construction requests, the contracting officer will need a complete SOW and name of the customer's COR nomination who will be providing technical support. The SOW should include a detailed, performance oriented description of what is expected of the contractor; what the government needs, not how it should be accomplished. For micro-purchases to be made using the government purchase card, while a detailed SOW is not required, an adequate description of the requirement shall be provided.

c. The total amount of funds certified and the final obligated amount must be designated in dollars. The final obligation should be annotated on the purchase request. Conversion rates at the time of award should also be noted.

d. Requiring activities will provide a list of personnel authorized to certify funds for purchases. Funds certification cannot be further delegated. Signing for the certifying officer is not acceptable.

8-3. Contracting in Contingencies. The flexibility needed to satisfy most requirements by the contracting officer can be met by using simplified purchase procedures such as imprest fund purchases, Standard Form 44 (Purchase Order-Invoice-Voucher), DD Form 1155 (Purchase and Delivery Order), blanket purchase agreements, and credit card purchases. (FAR 13)

8-4. Imprest Fund. (see Appendix G)

8-4.1 The Imprest Fund. This cash fund of a fixed amount is established by an advance of funds to a duly appointed cashier for the purpose of making immediate cash payments of relatively small amounts for authorized supplies and non-personal services. As in Chapter 7, it is again noted that as of 1 October, 1997, specific authorization must be received from the Office of the Under Secretary of Defense for establishment of an imprest fund for OCONUS operations. The amount of the fund will be based on the estimated monthly usage of the fund. Imprest funds are established by commanders of installations or activities who have contracting authority. In addition, an alternate cashier will be appointed to act as a backup for the primary cashier. In no event shall an imprest fund cashier have access to or control of more than one imprest fund.

8-4.2 Application. Dollar ceilings for transactions are normally \$500, but are raised to \$2,500 for overseas transactions in support of a contingency. The use of the fund must be considered advantageous to the government. The requiring activity must submit a request to initiate use of the imprest fund.

a. The purchasing information is annotated on a purchase request document and signed by the contracting officer. A purchase requisition, SF 1165 (Receipt for Cash-Subvoucher), and the vendor's sales document may be used to support the purchase.

b. The requisition document must itemize the supplies or non-personal services to be purchased and indicate the estimated cost. Competition is required anytime the contracting officer does not think that the price is fair and reasonable. Rotating suppliers in the same manner as any other small purchase method should be used to the maximum extent possible.

c. Material purchases will be delivered to a designated point and the receiver will examine and accept the supplies on either the vendor's invoice or the SF 1165. When the vendor cannot deliver, an authorized person may be designated to pick up the supplies. In this case, an advance of funds will be drawn from the cashier, annotated on an SF 1165, and paid to the vendor. The receipt from the vendor will be returned to the imprest fund cashier with the SF 1165 signed by the vendor as having received a cash payment (FAR 13.4).

8-4.3 Responsibilities of the Imprest Fund Cashier. The imprest fund cashier is personally responsible for the money and accountable to the finance and accounting officer. The cashier is also responsible to the contracting officer for the administrative operation of the fund. Every effort must be taken to safeguard the fund. The money should be kept in an adequate safe and securely locked. Cash is kept in an amount sufficient to meet minimum mission requirements.

a. Pending documentation of receipt of supplies, the cashier maintains an active file of purchase request documents for all fund purchases. Prior to payment, the cashier must match the purchase request document against the request for payment. Finally, the cashier certifies that the supplies were received and the price paid matches the payment request.

b. Whether the imprest fund is used for vendor delivery payment, receipt by parcel post, or payment for services, the cashier must make certain that each purchase has the required documentation. The verified SF 1165 and the properly executed sales document become a subvoucher which will later be used to reimburse the fund.

c. Upon presentation of an authorized document with the necessary certification of receipt for supplies or services, the cashier pays the supplier and obtains the certification of cash payment.

8-4.4 Reimbursement of the Imprest Fund. At least monthly, the fund is reimbursed by use of the SF 1129, Reimbursement Voucher, and supported by the cashier's subvouchers. At the close of the fiscal year, a reimbursement voucher covering all remaining subvouchers through 30 September is submitted before closing the allotment accounts for the month. When a vendor refunds cash prior to the submission of the SF 1129, the invoice must be annotated accordingly. If the refund occurs after submission of the SF 1129, the refund is submitted to the disbursing officer and the receipt is filed in the funds records.

8-5. Standard Form 44, Purchase Order-Invoice-Voucher.

a. Standard Form 44, Purchase Order-Invoice-Voucher, (FAR 13.505-3) is a pocket-size purchase order form designed primarily for on-the-spot, over-the-counter purchases of supplies and non-personal services. It can be used as a purchase order, receiving report, invoice, and public voucher. The procedures for its use are covered in Appendix I.

b. Since the SF 44 contains no written terms and conditions, its use is authorized only when no other small purchasing method is considered more economical or efficient and all of the conditions listed below are met:

(1) The supplies or services are immediately available,

(2) One delivery and one payment is to be made, and

(3) The purchase is not in excess of the contingency simplified acquisition threshold as declared by the Secretary of Defense. The use of the SF 44 for overseas transactions by warranted contracting officers in support of contingencies declared by the Secretary of Defense raises the \$2,500 limit to \$200,000.

c. Like imprest funds, the SF 44 may be used by persons other than the contracting officer provided the individual:

(1) Has written authorization from the contracting officer. The contracting officer should give a copy of the written authorization to the finance and accounting officer, in effect, delegating authority to sign a contract instrument.

(2) Has been trained by the contracting officer to use the form.

d. The buyer is responsible for ensuring that funds are available, that the form is properly processed, and that only authorized items are purchased. Care should be exercised to maintain physical control and accountability of the forms.

8-6. DD Form 1155, Order for Supplies or Services.
(see Appendix J)

8-6.1 Purchase Orders. Purchase orders (FAR 13.5) are self-contained, one-time contracts which typically result in one delivery and one payment. DD Form 1155 is authorized for purchases not to exceed the simplified acquisition threshold.

8-6.2 Delivery Orders. Delivery orders (FAR 16.501) are orders for supplies or services placed against an established indefinite delivery contract.

8-6.3 Clauses. To protect the interests of the government, unilateral purchase orders should incorporate by reference those applicable clauses listed at DFARS 213.507(a)(i). Use of Alternative I to subparagraph (h) of the Disputes Clause at FAR 52.233-1 is recommended. For those purchase orders requiring the contractor's written acceptance, the clauses at DFARS 213.507(a)(ii) shall be included. Because delivery orders are written against a contract, the terms and conditions of the contract apply to any delivery orders issued.

8-6.4 Use of DD Form 1155. Vendors are solicited orally or in writing. The DD Form 1155, Order for Supplies or Services, is filled in with appropriate information concerning shipping, prompt payment discounts, financial data, vendor, quantities, price, and additional data. The form is then mailed, hand carried, or picked up by the vendor, who will either perform the order or sign the back and return it, thereby promising to perform the order. When the item requested has been received or the service requested has been performed, the bottom of the front page may be used as a receiving report for the government.

8-6.5 Modification of Purchase Orders. The SF 30, Amendment of Solicitation/Modification of Contract (see Appendix K), is used to modify DD Form 1155 purchase orders. If the contract is bilateral, both parties must agree to the modification unless it falls within the Changes Clause. In addition, a unilateral contract may be

changed to a bilateral contract by using the SF 30. Since DD Form 1155 is unilateral (acceptance by performance) a signature is recommended though not mandatory.

8-6.6 Unilateral or Bilateral Action. A unilateral agreement is defined as a promise in return for performance (service or supply), while a bilateral contract is defined as a promise in return for a promise. Most DD Form 1155 actions are unilateral; that is, the government simply sends the vendor the form which authorizes him to perform immediately. Once the vendor has performed, the government is obligated to pay. The vendor is under no duty to perform, since the government's DD Form 1155 is merely an offer which he may accept by performance or refuse to accept by failing to perform. If the vendor fails to deliver, no contract has been breached nor defaulted since no contract existed.

a. Once the vendor has signed the acceptance and mailed it to the contracting officer, a bilateral contract exists. Under these circumstances, the government has the right under the Termination for Default Clause to terminate the contract if the contractor fails to perform according to its terms and to charge the defaulted contractor with the excess costs of repurchasing the requirement.

b. The form is used as a bilateral contract when there is a relatively long lead-time, when a more complex contract calls for a greater amount of contract administration, or when previous experience with a supplier indicated the desirability of possessing greater leverage through the Termination for Default Clause.

8-6.7 Withdrawal of Purchase Order. Unilateral purchase orders include provisions to allow termination for convenience.

a. A notice of withdrawal should be in writing with a request for written acknowledgment by the contractor. Once the contractor has begun performance on an order, the government has lost its absolute right to withdraw without cost or liability.

b. If it becomes necessary to terminate such a purchase order, the contractor should be asked to agree to a cancellation of the order without cost or liability. If the contractor refuses to agree to a no-cost settlement, the contracting officer shall initiate termination for convenience action in accordance with FAR Part 49. Wherever practical, the contracting officer shall obtain legal review before termination.

c. If the contractor has incurred costs in reliance on the purchase order, a settlement will be negotiated to reimburse him for those costs.

8-6.8 DD Form 1155 as a Delivery Order. This form is also the basic document used as a delivery order against indefinite delivery type contracts. There are three types of indefinite delivery contracts: definite-quantity, requirements, and indefinite-quantity. An indefinite delivery contract specifies all the terms

and conditions of a regular contract but may not specify exact quantities or time of delivery of supplies or services required. Additionally, a requirements contract does not obligate dollars until a delivery/task order is issued. As exact requirements become known, a DD Form 1155 is sent to the supplier and this initiates the delivery of supplies or services specified in the delivery order, subject to the terms and conditions of the existing indefinite de-livery contract. A requirements contract obligates the government to buy all of its requirements from the contractor. Delivery orders may be terminated, modified, or changed in accordance with the terms and conditions of the contract. When used as a delivery order, the DD Form 1155 does not have a dollar limitation.

8-7. Blanket Purchase Agreements.

8-7.1 General.

a. A blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for supplies or services by establishing "charge accounts" with qualified sources of supply. BPAs are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

b. Whenever practicable, establish pre-priced BPAs by negotiating firm unit prices for specific periods of time or by incorporating in or attaching to BPAs supplier's price lists or catalogs.

8-7.2 Establishment.

a. Contracting officers shall establish BPAs when there is a wide variety of items in a broad class of goods (e.g., hardware) that are generally purchased but the exact items, quantities and delivery requirements are not known in advance and may vary considerably.

b. A BPA should be established by the contracting office without a specific purchase request. The contracting office should liaison with the requiring components to anticipate recurring needs for potential contract under a BPA.

c. A BPA shall not cite accounting and appropriation data.

d. BPAs should be made with firms from which numerous individual purchases will likely be made during a given period. For example, if past experience has shown that certain firms are dependable and consistently lower in price than other firms dealing in the same commodities and if numerous small purchases are usually made from such suppliers, it would be advantageous to establish BPAs with those firms.

e. To the extent practical, BPAs of items of the same type should be placed concurrently with more than one supplier. Competitive sources should be given an equal opportunity to furnish supplies or services under BPAs.

f. If it is determined that BPAs would be advantageous, suppliers should be contacted to make the necessary arrangements for securing maximum discounts, documenting the individual purchase transactions, periodic billing, and other necessary details.

g. A BPA may be limited to furnishing individual items or commodity groups or classes, or it may be unlimited for all items or services that the source of supply is in a position to furnish.

h. BPAs shall be prepared and issued on DD Form 1155, Order for Supplies and Services.

8-7.3 Terms and Conditions. BPAs shall be established IAW FAR 13.203.

8-7.4 Delivery Tickets. BPAs shall include a requirement for all shipments under the agreement be accompanied by delivery tickets or sales slips which shall contain the following minimum information:

- a. Name of supplier,
- b. BPA number,
- c. Date of purchase,
- d. Purchase number,
- e. Itemized list of supplies or services furnished,
- f. Quantity, unit price and extension of each item less applicable discounts,
- g. Date of delivery or shipment.

8-7.5 Invoicing Method Options.

a. A summary invoice shall be submitted at least monthly or upon expiration of the BPA, whichever occurs first, for all deliveries made during a billing period. The summary invoice shall also identify the delivery tickets covered therein, stating their total dollar value and supported by receipted copies of the delivery tickets.

b. An itemized invoice shall be submitted at least monthly or upon expiration of the BPA, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received. These invoices need not be supported by copies of delivery tickets.

c. When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated; provided that a consolidated payment will be made for each specified period; and the period of any discounts will commence on the final date of the billing period or on the date of receipt of invoices for all deliveries accepted during the billing period.

8-7.6 Call Officers. Responsibility for the function of placing calls under BPAs rests with the contracting officer who may authorize competent individuals to place calls in any dollar amount within the limitation under established BPAs. Call officers may reside in the contracting office or in requiring activities. Contracting officers who authorize individuals to place calls under BPAs shall:

- a. Instruct the individuals in the proper use of BPAs.
- b. Furnish individual copies of BPAs to each individual authorized to place calls.
- c. Ensure that individuals have ready access to price lists or catalogs incorporated in or attached to BPAs.
- d. Ensure that individuals equitably distribute calls among suppliers with whom BPAs have been established.
- e. Ensure that individuals do not split purchase transactions to evade monetary limitations.
- f. Require that individuals refer all cases where prices are not considered reasonable to the contracting officer for determination.
- g. If appropriate, obtain from individuals at the end of each billing period copies of delivery tickets or sales slips so that supplier's invoices may be promptly paid.
- h. Maintain continuing surveillance over individuals to ensure compliance with acquisition regulations and to validate the need for retention of BPA call authorization of each individual.
- i. Ensure that suppliers are informed of the names of individuals authorized to place calls.
- j. Inform individuals authorized to place calls that the authority may not be redelegated.

8-8. Government-wide Commercial Purchase Card.
(Also see Appendix P)

8-8.1 General. A government-wide commercial purchase card (commonly called purchase or credit card) is a method of buying supplies and services up to the micro-purchase threshold of \$2,500 in accordance with FAR Part 13, DFARS Part 213, NAPS 5213, and

NAVSUPINST 4200.85 series. It may also be used as a payment method when used in conjunction with other procurement methods and may be used to order directly from Government sources (e.g., GSA wholesale supply or Federal Prison Industries).

8-8.2 Responsibilities, Qualifications and Uses. Refer to FAR Part 13 and Appendix P.

8-9. Record Keeping.

a. All FAR and DFARS administrative record keeping will continue under contingency conditions unless specifically stated otherwise.

b. Contract files must be sufficiently organized and annotated to enable a reconstruction of the entire procurement process to include expenditures.

c. Logs, either through an automated system or manual, will be maintained for procurement planning purposes, to identify purchase requests which are open, completed, and closed. This will provide linkage through the purchase request number between the customer, finance, comptroller, and contracting, and facilitate procurement planning. In addition, they may be used to develop reports and graphs to present production status.

8-10. Competition and Oral Solicitations. Purchases over \$100,000 (\$200K when authorized in a declared contingency) formal negotiated procurement (FAR Part 15). While the time necessary to make a large purchase will normally be greater than that of a purchase using simplified acquisition procedures, there are exceptions available to expedite the process.

a. The contracting officer need not seek full and open competition if the agency's need for the supplies or services is of such an unusual and compelling urgency that the government would be seriously injured unless the agency is permitted to limit the number of sources. Purchase requests citing Uniform Material Movement and Issue Priority System (UMMIPS) codes 01 through 04 reflect a compelling urgency but cannot be used as sole justification for the use of an oral solicitation. Sufficient rationale must be provided by the requiring activity to the contracting officer for a written justification and approval in accordance with FAR 6.302-2, 6.303 and 6.304.

b. A written solicitation is labor and time intensive. An oral solicitation is permitted under FAR 15.402(f) for perishable subsistence. For other supplies and services, an oral solicitation may be used when a written solicitation would delay the acquisition of supplies and services to the detriment of the government. This does not alleviate the contracting officer from complying with all other regulatory requirements. The contract file shall include:

- (1) A justification for use of an oral solicitation.
- (2) Item description, quantity, and delivery schedule.
- (3) Sources solicited, including the date, time, name of individual contacted, and prices quoted.
- (4) The solicitation number provided to the prospective contractors. The contracting officer's documentation must provide sufficient rationale for the use of oral solicitations, not just a reference to the UMMIPS code.

c. Once the contracting officer completes the oral solicitation and determines award, a contract will be prepared for the contractor's signature as quickly as possible. Any undue delay requires a further explanation in the contract file describing the reasons for the additional delay. Sample contract formats, preprinted forms, and copies of the required clauses in the contingency contracting support kit will accelerate the contracting process.

8-11. Selection of a Contract Type.

a. The contracting officer makes the final decision on the type of contract to use. This decision is made on a case-by-case basis. The objective is to select the contract type that places a reasonable degree of risk upon the contractor and provides the contractor with the greatest incentive to perform efficiently and economically. Consideration will be given to the factors in FAR 16.104, as well as the stability and predictability of the requirement, the specificity of the description of work, and the quality and availability of historical workload data. Contracting officers must ensure each contract file includes documentation explaining why a particular contract type was chosen as prescribed in FAR 16.103(d).

b. Contracting officers are cautioned that combination contracts, composed of two or more contract types, must be applied with care. Such contracts should be used only if the work can be described and contracts executed and administered in a manner that ensures the work is performed and the contractor is paid under the terms and conditions which the work was originally negotiated and priced.

c. The type of contract selected will determine both the clauses to be included and the degree of risk accepted by the government. The selection of contract type during a contingency will be more difficult because customer needs may easily be understated or overstated. Often times deployment needs will change daily or even hourly. In these cases, a customer's inability to accurately plan must be taken into consideration when determining the type of contract to use.

8-11.1 Types of Contracts.

a. Time and Materials Contracts:

(1) Time and materials contracts are used to acquire:

(a) a contractor's best effort in performing the SOW. Reimbursement under the direct labor is based upon established billing rates that include wages, overhead, general and administrative expenses and profit; and

(b) Materials at cost, including (if appropriate) material handling costs as well.

(2) A time and materials contract is one of the least desirable types of contracts because it affords the contractor no positive profit incentive to control material or labor costs effectively. Yet this contract type is often the only effective one for repair, maintenance, or overhaul work to be performed when the required level of effort is unknown. This type of contract may only be used:

(a) after the contracting officer executes a written determination and finding that no other contract type is suitable, and

(b) when the contract includes a ceiling price, the breach of which is at the contractor's risk. If the ceiling price is subsequently raised, the contracting officer shall document the contract file justifying the increase.

(3) In awarding a time and materials contract, the agreed upon hourly rate per direct labor hour is an important source selection factor, but more importantly is the contractor's technical and managerial skills to include his reputation for getting the job done. It is significant to understand that the contractor gets paid for hours and materials expended; accordingly, awarding to a marginal producer may not be wise over the duration of the contract.

8-11.2 Indefinite Delivery Contracts.

a. The use of indefinite delivery contracts for services is appropriate only in those instances in which the units truly represent services, a reasonable basis exists for those quantities estimated, and the government can place orders without discussion with the contractor as to price, quantity, or performance period.

b. The three types of indefinite delivery contracts are definite-quantity, indefinite-quantity, and requirements contracts. The requirements contract is most likely to be of benefit in a deployment. It has several advantages:

(1) No money is obligated when a requirements contract is awarded. Money is obligated only when the government issues a delivery order against the contract. (Delivery orders are prepared on the DD Form 1155 and contain information similar to a purchase order with some minor differences.)

(2) The contract price can be based on firm fixed price or cost reimbursement. The prices agreed to can be derived from either catalog or market prices.

(3) The contract is relatively easy to cancel compared to most other contracts. Prior to the end of the contract performance period, a written notification is sent to the contractor, after which the government stops issuing delivery orders. The contractor has the burden to prove if additional compensation is warranted.

(4) Requirements contracts are binding contracts only because of the explicit understanding that the government promises to place delivery orders under that contract and only that contract if and when a need occurs. The inclusion of maximum and minimum order quantity limitations is encouraged, so that the contractor is not hurt financially by too small an order quantity or fails to perform on too large an order quantity. These contractual limitations are negotiable, with the result that purchase requests for requirements above or below contractual quantity limitations may not result in delivery orders being placed on that contract. They will be treated as either a separate small, or large purchase. The success of the contract depends on the ability of the customer to develop realistic estimates of their needs.

(5) Requirements contracts are typically written for a one-year period based on estimated repetitive needs. Accordingly, supplies and services for which there are repetitive needs should be reviewed to see if a requirements contract might be suitable. One way to determine this is to review the number of purchases being made under simplified acquisition procedures for the same item(s).

8-11.3 Cost-Reimbursement Type Contracts.

a. Cost contracts are flexible, but require an acceptable accounting system that will allow tracking of costs that are allowable, reasonable, and allocable to the contract. Under deployment conditions there may be no way to determine the acceptability of an accounting system. Additionally, cost-reimbursement contracts require the inclusion of an auditing clause which may be unacceptable to foreign contractors. Additionally, obtaining auditing support may be difficult.

(1) The administration of a cost-type contract can be complex and labor intensive. This should be considered when determining contract type under contingency conditions relating to personnel resources and continuous monitoring required to ensure performance. If there are language and/or cultural barriers to

overcome, the contracting officer may experience difficulties in explaining the basis for reimbursement of costs and fees.

(2) If a cost contract is still desirable, one of the most advantageous to the government would be the cost-plus-award-fee. In the contingency contracting arena, this type of contract is service-oriented and provides for the reimbursement of allowable costs, the payment of a base fee and an award fee. Both fees are based on the estimated cost to complete the contract, not actual costs incurred. Since the base fee is essentially fixed, contractor motivation is maintained through the subjective determination of how much award fee the contractor should receive.

8-11.4 Fixed-Price Type Contracts. Under a fixed-price contract the government must be able to describe exactly the desired contract results and/or requirements and allow the contractor the flexibility to plan, manage, and execute the work in order to achieve those results. During a contingency, this type of contract has tremendous advantages as the performance and cost risk responsibilities lie with the contractor. The firm fixed-price contract entails less administration and as long as the requirements are clearly identified, the contractor should perform and be paid in a timely manner.

8-11.5 Undefinitized Contract Actions (UCA).

a. Undefinitized contract actions are those that are not definitively priced nor are terms agreed upon prior to the creation of a contractual obligation. Some examples include letter contracts, unpriced orders, and Undefinitized contract modifications. UCAs shall be approved in advance by the Head of Contracting Activity (HCA) and per DFARS 217.7402 all UCAs shall include a ceiling price.

b. Requests for approval to issue an Undefinitized contract action shall include:

(1) A written statement of urgency as required by DFARS 217-7403, and

(2) The contracting officer's findings and determination supporting the use of an unpriced instrument as the only practicable means of achieving the required delivery date. The written statement of urgency must be approved by the senior official in the requiring activity prior to being sent to the HCA. The statement should focus on when the requirement was first known to exist and the consequences if the required date is not achieved.

c. In the event that the contractor refuses to sign a bilateral contract and the contractor is the only vendor who can meet the stated requirements, the following recommendations are provided:

(1) Write the contract as if the contractor is going to sign,

(2) Have it witnessed that the contractor refuses to sign (but is willing to do the work),

(3) Put a memorandum in the file with the contract stating the situation,

(4) Review the requirements with the contractor and provide a verbal approval to proceed,

(5) The contracting officer must ensure contractual requirements are adhered to in providing the service in a timely manner at a reasonable cost, and

(6) The contracting officer should provide a copy of the requisition and memorandum documentation to the requester, finance, and retain one copy for file.

8-12. Ratifications.

a. When the contracting officer is not one of the first people to arrive at the deployment site unauthorized actions, or commitments will undoubtedly occur. Unauthorized commitments are those obligations incurred on the part of the government by an individual who does not have a warrant nor the authority to incur the liability. To correct these unauthorized actions, the government may assume liability through a ratification process. Ratification actions should be processed in the shortest time possible.

b. It must be made clear to all individuals that if ratification is not possible or permissible, the individual creating the irregular acquisition may be held liable for the costs of this action.

c. The process for ratification of unauthorized commitments should be established upon deployment and widely publicized to and by commanders.

d. At the same time, prevention of unauthorized procurements must be stressed. These incidents may occur without conscious intent, especially when dealing with the HN. If a U.S. Forces member asks for an item or service the HN will normally make every attempt to fulfill that request regardless of proper authorization. Active support from commanders in avoiding unauthorized commitments must be exercised.

8-13. Referrals. There may be purchase requests which cannot be fulfilled on the local market. These may be referred to another contracting activity for action. The contracting officer should ensure the purchase request includes an adequate description, a fund cite, a valid "ship to" address, and a point of contact. For

contract repair items, a hand receipt is required to account for the item.

a. There are usually several sources of contracting expertise geographically separated from the contracting officer which could be used, such as:

- (1) The American Embassy,
- (2) The nearest permanent military base contracting office,
and
- (3) The joint service offices collocated in the area.

b. Administrative Requirements for Referrals. Referral packages should be kept in an open file until completed. This will help the contracting officer know the status of referrals and help the finance officer keep track of outstanding commitments. Funds may be required to be transferred using DD Form 448, Military Interdepartmental Purchase Request.

8-14. File Management. Effective, proper contract file management is essential in providing an accurate and complete history of all transactions. Files should be managed in accordance with FAR 4.801.

8-14.1 File Contents. Contract files should contain all documentation as prescribed by FAR 4.803(a) and DFARS 204.802.

8-14.2 Format/Numbering and Transfer.

a. All large-purchase records should be filed in a standard six part file folder in accordance with the prescribed format.

b. Contract files transferred internally from contracting to administration should be controlled in accordance with DFARS 204.202 and 204.8.

c. The Uniform Procurement Instrument Identification Number (PIIN) system (DFARS 204.70) should be used in assigning identifying numbers to all contracts, solicitation documents, delivery orders, purchase orders, and other instruments. Registers of any PIINs issued and used in the procurement process should be maintained.

8-15. Contract Management.

8-15.1 Contract Monitoring. Contractor surveillance under contingency conditions may be difficult due to location, broad customer base, and the performance/delivery time involved. This emphasizes the importance of having as many trained CORs as possible in close proximity to the contractors and the mission, and maintaining close communications with commanders. Commanders must understand the role of CORs who may perform tactical missions in their units and also the role of CORs in supporting mission success

due to contractor performance. Under contingency conditions, ensuring contractors are (are not) paid for services/supplies performed (not performed) is critical.

a. CORs should closely monitor contract performance and provide the contracting officer with documentation to identify the contractor's compliance or non-compliance with the terms of the contract. Although the appropriate forms may not always be available, a simple signed memorandum with supporting data will suffice for the contracting officer to take action. This memorandum will become part of the official contract file.

b. Commanding Officers, as well as CORs, must understand they do not have contractual authority to issue directions or changes to any contract or purchase order. In cases where changes have been made by unauthorized personnel, the contracting officer must be immediately notified. The contracting officer will then note the substance of the change, determine whether the circumstance was appropriate, and take action for inclusion in the contract file as necessary.

8-15.2 Contract Modifications. The contracting officer can expect wide fluctuations in projected requirements versus actual requirements, particularly for service contracts. The following guidelines address change orders, administrative changes, and supplemental agreements.

a. Contract modifications are addressed in FAR Part 43 and DFARS Part 243;

b. A Standard Form 30, Amendment of Solicitation/ Modification of Contract shall be used to document all contract modifications (see Appendix K).

c. Contract modification is a generic term meaning any written change in the terms and scope of the contract. Contracts may be modified by use of a change order. A clear distinction must be made between the two terms - change and change order.

(1) A change is any alteration within the scope of the contract. Changes can be made in the specifications, drawings, designs, method of packing or shipment, time or place of delivery, and/or quantity or type of government provided material.

(2) A change order is a written order signed by the contracting officer directing the contractor to make changes that the Changes Clause authorizes him to make without the contractor's consent. If the change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under the contract (whether or not changed by the order) the contracting officer shall modify the contract to make an equitable adjustment in the contract price, the delivery schedule, or both.

(3) The contractor is required to comply with the change pending the outcome of negotiations to establish an equitable adjustment. Changes clauses are required for fixed price and cost reimbursable type contracts for supplies, services, and construction.

d. Administrative changes are written, unilateral changes that do not affect the substantive right of the parties. They are used to make changes such as a change of paying office or the name of the contracting officer.

e. A supplemental agreement must be in writing and is a bilateral agreement, agreed to and signed by both parties. It is used whenever there is a change in the scope of the contract or when it is otherwise necessary or desirable to have the contractor's consent to any modification to a contract.

(1) Supplemental agreements are used to:

(a) Negotiate an equitable adjustment resulting from a change order,

(b) Definitize a letter contract, and

(c) Reflect any other agreements reached by both parties inside or outside the scope of the contract.

(2) If the contractor refuses to sign the agreement, follow procedures outlined in PCRB paragraph 9-2d(6).

(3) Unilateral modifications (signed only by the contracting officer) are used to make administrative changes, issue change orders or termination notices, or make changes authorized by clauses other than the Changes Clause, such as exercising an option, changing government furnished property or incorporating a value engineering proposal into the contract. (Also see FAR 43.103(b)).

f. Whichever method is used, either unilateral or bilateral, the policy is that, if possible, the modification should be priced before it is executed for the protection of both parties. The magnitude of some changes and the contingency environment make this difficult.

(1) From a pricing standpoint, unpriced change orders are risky business because, during the time that negotiations are being conducted and performance is going on, the contractor has no incentive to keep costs down. If a change cannot be priced before it is authorized, an agreement should be reached with the contractor on a ceiling, not to exceed price, for the change.

(2) For those changes that result in a relatively small increase or decrease in price, it is common practice to incorporate them into the contract on a "no-charge basis." This practice is

encouraged to hold down administrative costs that result from modifying the contract.

8-15.3 The Changes Clause. There are slight differences in the various changes clauses, depending on what is being purchased (supplies, services, or construction) and the type of contract that is awarded (fixed price or cost reimbursable). Common elements are in all changes clauses.

- a. A change order must be in the general scope of the contract.
- b. The change order must be in writing.
- c. The ordered change must be made by the contracting officer.
- d. There are changes not provided for in the changes clauses that the contracting officer may consider necessary for the effective contract administration. Among these are changes in quantity. Quantity may not be unilaterally adjusted by use of the changes clause. A decrease in quantity may be affected by a partial termination for convenience. Usually, increases in quantity are new procurements and may be affected by supplemental agreement only if the rules regarding competition are not violated. However, if the contract contains the "Variation in Estimated Quantity" clause, a price adjustment may be available if quantities either exceed 115 percent or fall below 85 percent of the contract estimated quantity, where the variation in quantity is not the result of action by the contracting officer.

8-15.4 Payments. There are two different types of payments a contracting officer can authorize: progress and partial/final. (see Appendix L).

- a. Progress payments are supported by an estimate of job completion (or progress report) stated in percentages to inform the contracting officer of the percentage of the total contract amount that can be released to the contractor for progress payments. Progress payments based solely on evidence of costs incurred are strongly discouraged.
- b. Partial payments are made for services rendered and/or partial delivery of supplies while final payments are made whenever the contractor has successfully completed the contract, or the contracting officer has canceled/terminated any remaining requirements.

8-15.5 Terminations. Most terminations will be for convenience as opposed to terminations for default. If the contracting officer decides to terminate a contract for default, performance must be in default under the terms of the Terminations for Default clause and such default must be inexcusable. In deciding which form of termination to pursue in a contingency operation, the contracting officer should carefully consider that the contractor will not

likely be bonded, the statement of work may very well contain ambiguities, and the contractor is likely to be the sole source for the needed services. It would serve no purpose to default a sole source contractor if there is no hope of recovering procurement costs or of finding another contractor to do the job.

a. These contracts can normally be terminated by simply issuing a letter of cancellation and release of claims in order for the contracting officer to close out the contract and for finance to release the money remaining on the contract for other requirements. However, the contractor must consent to a release of claims. If a contractor does not concur or does not release the government for unliquidated progress payments, a termination for default should be considered.

b. Terminations for convenience could also be handled the same way, except when the contractor has invested substantially to fulfill the contract. In these cases, the normal rules in the FAR, and supplements thereto, should be followed to ensure an equitable adjustment is made to compensate the contractor. A contracting team should remain in the area to ensure close-out of all contracts. (see Appendix M)

8-16. Reports.

8-16.1 Audit System. A simple database reporting system to provide visibility and status of procurement actions is required and should be implemented immediately. Automation to include laptop computers will assist in establishing a more efficient system which will coincide with CONUS systems. The system should include the following data fields:

- a. Date of receipt of requisition.
- b. Date of award.
- c. Type of contracting action (i.e., contract, purchase order, BPA, delivery order, modification).
- d. Amount of committed dollars.
- e. Contractor name.
- f. Federal Supply Class.
- g. Procurement Instrument Identification Number (PIIN)/Contract number/Requisition number.
- h. Amount of obligated dollars.
- i. Unit of measure/quantity (i. e., each, box, carton, numbers).
- j. Item Description.

k. Remarks.

8-16.2 Procurement Action Reports.

a. DD Form 350 is used to report individual contract actions and consolidated actions in excess of \$100,000. (\$25,000 if you are not a deployed OCONUS contingency contracting office.) The report shall be mailed or sent electronically, within three working days after the date on which the dollars were actually obligated or de-obligated by the contracting office.

b. DD Form 1057 is a monthly summary covering all contracting actions of \$25,000 or less. Reports are submitted within five working days after the close of each month.

c. Deployed contingency contracting offices will report contract actions over \$25,000 but less than or equal to \$100,000 on DD Form 1057 within five working days after the close of each month. A separate DD Form 1057 for all contracting actions of \$25,000 or less is still required.

d. Send DD Forms 350 and 1057 reports to FISC Norfolk Washington Detachment, Attn: PMRS Group, 901 M Street SE, Washington Navy Yard, Building 200, Washington, DC 20374

8-16.3 Management Reports. Data collected from the DD Forms 350 and 1057, and data from the tracking system will be used to make established and ad hoc reports. Reports that will be helpful in the management of the contracting activity include those that list the work load production of divisions, aging of requests and dollar amounts of obligations.

CHAPTER 9

CLAIMS, SEIZURE, DISPUTES AND APPEALS

9-1. Claims. The government's policy is to try to resolve all contractual issues in controversy by mutual agreement at the contracting officer's level without litigation. If, however, it is not possible, the contracting officer must issue a final decision to a contractor's claim. In order to be a valid final decision, a document identified as a final decision must fulfill the following requirements:

- a. be in writing,
- b. be the decision of the contracting officer,
- c. inform the contractor of his right to appeal, and,
- d. adequately inform the contractor of the reasons behind that decision.

9-2. Seizures.

9-2.1 General. Commanders may, under the principle of military necessity, and subject to restrictions, seize private property during hostilities when indispensable for securing quickly the submission of the enemy. Seizing private or public property for mere convenience is unlawful. Commanders may not leave civilians without adequate food, clothing, shelter or medical supplies. Legal assistance must be consulted in the seizure of any property if contracting is involved.

9-2.2 Property Control Record Book (PCRB). This book, which may be issued to any level, confers no authority; it merely facilitates the ability to document seizures under the law of war. The book may be used only in designated areas.

9-2.3 Procedures.

- a. Each PCRB should be numbered and contain a minimum of ten sets of four serial-numbered copies of the property control record form.
- b. The cover of the book should contain a statement detailing where the book may be used.
- c. The inside cover of the PCRB should contain instructions to the commander on the use of the forms to include the appropriate distribution of the four property control/receipt records.
- d. The serial-numbered property control record should require the soldier seizing the property to enter pertinent information concerning the seized property and should contain a receipt, both

in English and the local language, to be signed by the property owner, if available.

e. The inside of the back cover should contain a seizure record.

f. The Staff Judge Advocate Office should be responsible for the issuance of the books to the commanders. Hand receipts can be used to issue PCRBS to the units. It should be emphasized that the SJA is only issuing the books and that accountability for the books and seized property is a command responsibility.

9-2.4 Payment for Seizures.

a. There are procedures available to provide compensation for seized property. They are:

(1) Ratification. This is the act of approving an unauthorized commitment by an official who has the authority to do so. (See FAR, DFARS)

(2) Public Law 85-804 and Executive Order 10789. Defense agencies may enter into, amend, and modify contracts, without regard to other provisions of law related to making, performing, amending, or modifying, whenever the Secretary concerned considers that such action would facilitate the national defense. (See FAR, DFARS)

b. Whatever process is used to settle claims will be influenced by the local conditions. However, contracting responsibility is generally limited to ratification actions and extraordinary contractual relief under Public Law 85-804.

9-3. Contractual Disputes and Appeals.

9-3.1 General.

a. Contractors may submit claims that cannot be accepted for statutory, regulatory, or contractual reasons. The government's decision to reject such a claim, either in part or total may result in a contract dispute. If the dispute cannot be resolved, the contracting officer will make a final decision in accordance with FAR subpart 33.2. The contractor can then appeal that final decision under the applicable contract disputes clause. --

b. The contracting officer shall decide all questions subject to the Disputes clause for which authority to act is present. The contracting officer will refer to regulations and legal counsel on these matters.

c. Procedures.

(1) Upon receipt of a claim in excess of \$100,000, the contracting officer should assure that the claim includes the

contractor certification required by the Contracts Dispute Act, attesting to the fact that the claim is made in good faith, that the supporting data are accurate and complete to the best of the contractor's knowledge, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable. Any suspected fraudulent claim or misrepresentation of fact shall be immediately reported to the legal officer and the chief of the contracting office.

(2) The contracting officer will utilize the specialized skills of the functional representatives and legal officer prior to issuing a final decision. The final decision must be that of the contracting officer.

(3) Final decisions for claims of \$100,000 or less must be issued within 60 days after receipt of the claims.

(4) For claims exceeding \$100,000, the contracting officer, within 60 days after receipt, must either issue a final decision or notify the contractor when a final decision will be issued.

(5) Final decisions are to be prepared in accordance with FAR 33.211. Final decisions must include notification to the contractor pursuant to the Disputes clause contained in the contract.

(6) The contracting officer will submit the proposed final decision to the legal officer for review. A copy of the final decision will be forwarded to the contractor by any method that provides evidence of receipt.

9-4. Alternative Disputes Resolution.

a. Disputes that cannot be resolved between the parties often result in litigation. The Alternative Disputes Resolution (ADR) process is an alternative to litigation and should be considered prior to embarking on that path. Unlike litigation, ADR keeps decision making in the contracting chain rather than with lawyers. Also, an agreement developed by the parties, rather than a decision resulting from litigation, will be of immeasurable assistance in maintaining a continuing business relationship with the contractor.

b. The essential elements of ADR include:

(1) the existence of a dispute,

(2) a voluntary election by both parties to participate in the dispute resolution process,

(3) an agreement on an alternative technique,

(4) participation in the process by officials of both parties who have the desire and authority to settle, and

(5) the contractor certification required by FAR 33.207.

9-4.1 ADR techniques. These include facilitation, mediation, fact-finding, minitrials, arbitration, and negotiation. Whenever possible, the contracting officer should attempt to resolve disputes through negotiation with the contractor. The contracting officer should consult legal counsel for assistance with other techniques.

APPENDIX A

**CERTIFICATE OF APPOINTMENT AS A CONTRACTING
OFFICER**

STANDARD FORM 1402

APPENDIX B

CONTINGENCY CONTRACTING DEPLOYMENT KIT

B-1. Planning. Each Navy contracting activity with a deployable contracting officer and/or deployable contracting unit should prepare a Contingency Contracting Deployment Support Kit. From previous experience, gathering procurement regulations, equipment, and forms upon deployment notification is too late. Units are already deploying to the site and procuring locally to respond to immediate needs. As a result, there may be many unauthorized purchases which will create a workload upon the arrival of procurement personnel. Individual kits should be developed to specific scenarios or anticipated deployment areas.

B-2. The Contingency Contracting Deployment Support Kit:

a. Each kit should include a 90-day supply of the following forms and materials:

- o DD Form 250, Material Inspection and Receiving Report
- o DD Form 350. Individual Contracting Action Report
(Over \$25,000)
- o DD Form 448, Military Interdepartmental Purchase Request (MIPR)
- o DD Form 448-2, Acceptance of MIPR
- o DD Form 1057, Monthly Contracting Summary of Actions
(S25,000 or less)
- o DD Form 1155, Order for Supplies or Services -
Request for Quotations NSN 0102-LF-001-1553
- o DD Form 1592, Contract Cross Reference Data
- o DD Form 1593, Contract Administration Completion
Statement
- o DD Form 1594, Contract Completion Statement
NSN 0102-LF-016-3502
- o DD Form 1597, Contract Close-out Checklist
- o DD Form 1598, Contract Termination Status Report
- o DD Form 1784, Small Purchase Pricing Memorandum
NSN 0102-LF-025-5000
- o NAVCOMPT Form 2276, Purchase Request and Commitment

- o Standard Form 18, Request for Quotations
- o Standard Form 26, Award/Contract
NSN 7540-01-152-8069
- o Standard Form 30, Amendment of Solicitation/
Modification of Contract NSN 7540-01-152-8070
- o Standard Form 33, Solicitation, Offer, and Award
NSN 7540-01-152-8064
- o Standard Form 36, Continuation Sheet
- o Standard Form 44. Purchase Order-Invoice-Voucher
NSN 7540-01-152-8068
- o Standard Form 1129, Solicitation Mailing List
Application
- o Standard Form 1165, Receipt for Cash-Subvoucher
- o Standard Form 1402, Certificate of Appointment
- o Standard Form 1403-8, Preaward Survey of Prospective
Contractor Series
- o Standard Form 1409, Abstract of Offers
NSN 7540-01-142-9844
- o Standard Form 1410, Abstract of Offers Continuation

b. A list of authorized Procurement Instrument Identification Numbers (PIIN) IAW DFARS 204-7003 - Uniform Procurement Instrument Identification Numbers. These numbers should be provided by a sponsoring support contracting activity, possibly where the contracting element deploys from or is based. PIINs will facilitate the incorporation of the contracts into the sponsoring activities' files and records. The numbering system is used to facilitate control of individual contracting actions. Registers of the PIINs will be maintained according to the type of contracting action as follows:

- o Blanket Purchase Agreements (A)
- o Invitation for Bids (B)
- o Contracts (C)
- o Indefinite Delivery Type Contracts (D)
- o Delivery Orders (F)
- o Basic Ordering Agreements (G)

- o Purchase Orders (M)
- o Request for Quotations (Q)
- o Request for Proposal (R)

c. Catalogs with pictures of supplies. Because of probable language barriers, such catalogs would be very helpful. Catalogs of hardware, construction supplies, automotive parts, among others, would be useful.

d. Administrative and other supplies, such as:

(1) Office supplies.

<u>NSN</u>	<u>Unit of Description</u>	<u>Issue</u>	<u>Qty</u>
7530-00-043-1194	Folders, pressboard	hd	5
7510-00-161-4291	Clip, paper (butterfly)	bx	4
7510-00-161-4292	Clip, paper (gem Pattern)	bx	3
7510-00-205-1439	Rubber band (2 1/2 x 1/16)	bx	6
7510-00-223-7046	Eraser, rubber	dz	3
7510-00-235-6068	Fasteners, paper (2 in)	bx	10
7510-00-272-9805	Envelope, transport (10x13)	ea	25
7510-00-281-5234	Pencils, general (#2)	dz	3
7510-00-543-6792	Refills, ball point (blk med)	dz	4
7510-00-551-5073	Rubber band (3 1/2 x 1/2)	bx	5
7510-00-634-1358	Tape, correction (1/6 in)	roll	2
7520-00-162-6178	Sharpener, pencil	ea	1
7520-00-281-5918	Clipboard (9 1/2 x 11 letter)	ea	6
7520-00-935-7136	Pens, ball point	dz	2
7530-00-223-7939	Notebook, stenographers	pg	1
7530-00-281-5941	File folders, (letter size)	hd	4
7530-00-290-0599	Paper, bond	bx	2
7530-00-935-6554	Envelope, mail	mx	1
7530-00-990-8884	Folders, pressboard	ea	50
7530-01-060-7511	Memorandum books (3 1/2 x 4 1/2)	ea	30
8105-01-183-9768	Bag, plastic	bx	5
	See GSA Sch 74IA		
	Typewriter, portable non-electric	ea	2
	See GSA Sch 74IIA		
	Calculators with ribbon and tape	ea	5
	English/Foreign language Dictionary for appropriate language	ea	2

(2) A personal laptop computer with software, printer, modem, power converter, extension cords, batteries, diskettes, paper, telephone line adapters, AC/DC adapter of the type used to connect to an automobile cigarette lighter, and other peripherals as required.

(3) Portable cellular phone

(4) Flashlights and batteries.

(5) Sample contract formats.

(6) SF 1402, Certificate of Appointment, issued by the Head of Contracting Activity (HCA) or the Principal Assistant Responsible for Contracting (PARC).

(7) Hand-held calculators and batteries.

(8) A small photo copier.

(9) Facsimile machine.

(10) Polaroid camera, batteries, flash and film.

(11) A field desk and chairs.

(12) UPS/Surge Protector/Voltage Converter

(13) Field safe and/or security container.

(14) FAR and DFARS both paperback and software versions.

e. The need for cash and U.S. Treasury checks should be determined in conjunction with the finance and accounting office. FAR 25.501 (a) requires offshore contracts with local firms to be paid in local currency. The use of U.S. currency requires a status of forces agreement with the Host Nation.

(1) Cash or U.S. Treasury checks will remain in the possession of finance and accounting office personnel.

(2) A list of banking facilities available in the host country where U.S. cash and checks may be converted to local currencies would be helpful to both finance and supply personnel.

APPENDIX C

CONTRACTING CHECKLIST

C-1 General. This appendix provides contracting officers and contracting organizations with a general checklist required to implement the contracting management process necessary in a contingency environment.

C-2 Responsibilities.

a. Contracting officers will ensure that checklists are updated as necessary and adapted to local conditions as required.

b. Managers will use the internal control checklists to

(1) Test whether prescribed controls are in place, operational and effective.

(2) Identify areas where additions or reductions to existing controls are needed.

(3) Select corrective actions when a deficiency can be corrected locally.

(4) Refer deficiencies that cannot be corrected locally to higher command levels for assistance.

c. Solicitations and contracts are organized by sections in accordance with the uniform contract format. The Statement of Work (SOW) is located in Section C of the contract in accordance with the uniform contract format. The SOW is the most important section of the solicitation package because it describes what is to be accomplished by the contractor. It is the SOW that will ultimately determine the cost that the government incurs for completion of the work. A model SOW format is illustrated on the next page.

STATEMENT OF WORK SUGGESTED FORMAT

GENERAL

Scope of Work
Background Information
Operating Hours
Personnel
Contingencies
Quality Control

Security Clearances
Physical Security
Access to Facilities
Key Control
Management Plan
Other

DEFINITIONS

Abbreviations

Acronyms

GOVERNMENT-FURNISHED PROPERTY AND SERVICES

Facilities

Utilities

Equipment

Materials

Services

Other

CONTRACTOR-FURNISHED ITEMS

Supplies, Maintenance and Repair

SPECIFIC TASKS

Relates to Work Breakdown Structure (WBS)

Relates to Definitions (C.2)

Relates to Applicable Documents (C.6)

Relates to Data Requirements or Deliverables

Relates to Performance Requirements Summary

APPLICABLE DOCUMENTS

Mandatory

Advisory

TECHNICAL EXHIBITS

Performance Requirements Summary (PRS)

Workload Data

Key Personnel Requirements

Lengthy Descriptions

Contract Data Requirements List (CDRL) or Deliverables

ATTACHMENTS

Specifications

Work Frequency Schedules

Special Requirements

C-3 Internal Control Review Checklist. This checklist is a tool which serves as a starting point for review of your contracting operation. It may be appropriately modified to fit your individual situation and circumstances.

C-3.1 Presolicitation.

a. Initial purchase tasking receipt and review.

(1) Are procedures in place to account for and record the date and time of purchase requests that were received in the contracting office?

(2) Are the purchase requests received with adequate data for identification and accountability control, and are they adequately funded, signed, dated, and approved by those in authority?

(3) Do the purchase descriptions or performance work statements received describe needs that are appropriate for this contracting office to assume purchase responsibility for?

(4) Do purchase descriptions or performance work statements provide a specific description of only the customer's minimum needs?

(5) Are the purchase requests for items delivered after the fact (unauthorized commitments) processed in accordance with ratification procedures? (FAR 1.602.3)

(6) Are procedures followed for monitoring the work backlog, priority purchase requests, and requests that were transferred for processing?

b. Selecting the best acquisition method.

(1) Are requirements placed on orders against applicable, existing "open ended" agreements or contracts rather than used as the basis for creating a new solicitation or purchase order?

(2) Are "lessons learned" during the previous requirement considered in the preparation of a new solicitation to fill recurring requirements? Are previously erroneous estimates, descriptions, and assumptions corrected rather than repeated?

c. Competition considerations.

(1) Are negotiations being used when it is impractical to use sealed bids? FAR 6.401(b)(1).

(2) Are negotiated contracts awarded using full and open competition except where justified? FAR 6.101.

(3) Is the urgency exception to full and open competition being properly applied? FAR 6.302-2.

(4) Is a competition advocate appointed and identified; and the approval levels and form for justifications published? FAR 6.501.

(5) Are justifications for other than full and open competition approved in writing at the appropriate level? FAR 6.304.

d. Solicitation preparation and review prior to distribution.

(1) Do solicitations conform with the uniform contract format? FAR Subpart 14.2, FAR 15.406-1

(2) Do solicitation forms and clauses avoid duplicating or supplementing FAR or DFARS forms and clauses?

(3) Do solicitations requiring a legal sufficiency review prior to issuance receive the required review?

(4) Is adequate legal support for contracting provided in a timely manner?

C-3.2 Solicitation, Evaluation and Award:

a. Solicitation distribution, amendment, and cancellation.

(1) Are records kept of each solicitation issued, to include the distribution made and the date the solicitation was issued? FAR 14.204.

(2) Are solicitation mailing lists established and maintained? FAR 14.205.

(3) Is a listing of questionable or ineligible contractors available and checked before placing vendors on the solicitation mailing list?

b. Bid opening and proposal closing.

(1) Are offers received prior to opening kept secure in a locked bid box or safe? FAR 14.401.

(2) Are RFP postponements limited to only justifiable situations? FAR 14.402-3.

(3) Are procedures followed on the receipt and handling of proposals and quotations? FAR 15.411.

(4) Are procedures followed on the disclosure and use of information contained in proposals? FAR 15.411

c. Responsiveness and certifications.

(1) Are only offers that comply in all material respects with the solicitation considered for award? FAR 14.301(a).

(2) Are appropriate certifications and representation required by the solicitation provided by the offeror prior to award?

d. Mistakes and protest resolution.

(1) Are bids and proposals examined for mistakes? FAR 14.406-1 and FAR 15.607(a).

(2) Are alleged mistakes after bid opening appropriately processed and resolved? FAR 14.406.

(3) Do contracting officers consider, resolve, or forward, as appropriate all protests filed that are related to either their solicitations or procedures? FAR Subpart 33.1.

(4) Is legal counsel consulted on all protest matters?

e. Technical evaluation.

(1) Are technical evaluations documented to ensure that minimal solicitation requirements are met? FAR 15.608(a)(2).

(2) Do contracting officers generally request a technical analysis of the proposals when cost or pricing data are required? FAR 15.805-4.

(3) Do contracting officers obtain assistance from the traffic management office prior to awarding contracts where transportation factors are a consideration in the evaluation? FAR 47.301-1 and 47.301-2.

f. Pricing evaluation.

(1) Do files contain adequate documentation to support the use of price analysis, to include indicating which of the approved techniques were used to accomplish the analysis? FAR 15.805-2.

(2) Do contracting officers obtain independent government estimates (IGE) when needed or appropriate?

(3) Is a properly executed Certificate of Current Cost or Pricing Data obtained when required? FAR 15.804-2 and 15.804-4.

(4) Are price negotiation memorandums prepared and in the contract file for each price negotiation? FAR 15.808.

g. Obtaining approvals and business clearances prior to award.

(1) Do the contract files reflect the obtainment of appropriate award approvals and signature authorities?..

(2) Are public announcements and the release of contract award information in compliance with regulatory requirements?

(3) Do contract files contain the necessary negotiation memorandum when required?

(4) Are procedures for the review and approval of negotiation memoranda established by the Head of the Contracting Activity (HCA)?

C-3.3 Contract Management:

a. Functional representatives/responsibilities and limitations.

(1) Are qualified individuals selected and appointed as contracting officer representatives (CORs) by a contracting officer?

(2) Do CORs written designations clearly indicate their authority and limitations?

(3) Are CORs, inspectors, functional managers, and others routinely involved in performing contract management functions regularly advised and trained regarding their role in contract management?

b. Post-Award orientation/pre-performance conference. Is consideration given to the need for a post-award orientation/pre-performance conference to foster a mutual understanding of the contractual agreement and the responsibilities assigned? FAR 42.502.

c. Contract Modifications.

(1) Is legal counsel requested to make a legal sufficiency determination prior to effecting a modification?

(2) Is legal counsel requested to assist in clause preparation and a deviation approval when a clause other than a standard clause is to be incorporated into a modification?

(3) Are price negotiation memorandums prepared and in the contract file for each price negotiation? FAR 15.805-2.

(4) Are change orders only issued for work within the scope of the contract?

d. Property Administration.

(1) Are contractors required to publish a property control system describing the procedures and techniques to be used in managing government property?

(2) Is regulatory guidance followed to determine contractor liability should government property become lost, damaged, destroyed, or unreasonably consumed? FAR 45.504.

(3) Are there an adequate number of properly trained personnel to manage a property administration program?

e. Quality Assurance.

(1) Are nonconforming supplies or services offered to the government rejected except as provided in applicable regulations? FAR 46.407.

(2) Is contractor performance on service contracts monitored according to established surveillance plans?

f. Damages and delinquency actions.

(1) Do contracting officers take timely action to alleviate or resolve delinquencies?

(2) Do contracting officers obtain legal counsel and technical advice prior to taking action when a default termination is being considered? FAR 49.402-3.

(3) Do contracting officers act to mitigate damages when repurchasing against a defaulted contractor's account? FAR 49.402-6.

(4) Do contracting officers assure that consideration is obtained by the Government for revising the delivery schedules or other contract terms?

g. Receiving reports, acceptance, final payment and contract completion?

(1) Are decisions to accept or reject supplies offered or services performed documented and distributed in a timely manner?

(2) Are there an adequate number of properly trained personnel on hand to perform inspection and acceptance functions?

(3) Are all contractual claims and obligations satisfied on physically completed contracts prior to contract close-out?

C-3.4 Special Acquisition Situations and Requirements:

a. Simplified acquisition purchase transactions.

(1) Are simplified acquisition purchase files reviewed to ensure that requirements are not split to avoid the use of a formal solicitation? FAR 13.103(b).

(2) Are the most suitable, efficient, and economical simplified acquisition methods used, given the circumstances of each requirement? FAR 13.104(a).

b. Service Contract Requirements. Are surveillance plans developed to include both sampling guides and activity checklists needed to monitor the contractor services performed?

c. Acquisition Reports (contingency).

(1) Are DD Forms 350, Individual Contracting Action Report (Over \$100,000), prepared in a timely manner, verified, and submitted for each applicable contractual action? DFARS Part 253 Forms.

(2) Are DD Forms 1057, Monthly Contracting Summary of Actions (\$25,000 or less), prepared in a timely manner, verified, and submitted?

(3) Is a separate DD Form 1057, Monthly Contracting Summary of Actions, prepared for contracting actions between \$25,000 and \$100,000 in a timely manner, verified, and submitted?

(4) Are DD Forms 1547, Record of Weighted Guidelines Application (\$500,000 or more), prepared in a timely manner, verified and submitted? DFARS 215.970.

APPENDIX D

GLOSSARY/DEFINITIONS

Acquisition - The overall process which uses contracting to deliver material and services needed to accomplish a mission. It is an integral part of the overall theater logistics plan and operational system which includes requirements generation and flow, contract/purchase, inspection, acceptance and user receipt of delivery.

Agency/Organization Program Coordinator (APC) - An individual designated by the Head of the Activity who shall have overall responsibility for the management, administration and day-to-day operations of the Governmentwide Commercial Purchase Card (GCPC) Program at the activity.

Appointment Documentation - Appointments for contracting officer, purchase agent, imprest fund cashier, contracting officer's representative (COR), and various other positions will be made using an appointment letter or a SF 1402, Certificate of Appointment as a Contracting Officer (Appendix A). The purpose of this documentation is to specify the responsibilities and limitations of the appointment.

Approving Official (AO) - An individual who has under his/her purview a number of cardholders. The approving official is responsible for, at a minimum, reviewing his/her cardholders' monthly statements and verifying that all purchases were necessary for official Government purposes and made in accordance with applicable directives.

Billing Cycle Purchase Limit - The spending limit imposed on a cardholder's cumulative purchases and transactions in a given billing cycle.

Cardholder - Any individual designated by the Head of the Activity or Designee to be issued a card. The card bears the individual's name and may be used by him/her to purchase authorized supplies and services in accordance with this instruction, the GSA Contract Guide, the activity internal operating procedures, and the cardholder's delegation of authority.

Contingency - A situation involving the deployment of military forces in response to natural disasters, terrorist or subversive activities, collapse of law and order, political instability, or military operations. Due to the uncertainty of the situation, contingencies require plans, rapid response and special procedures to ensure the safety and readiness of personnel, installations and equipment.

Contingency Contracting - The acquisition of those essential supplies and services needed to sustain a mission in response to a

crisis or actual declaration of war. It includes emergency contracting in continental United States (CONUS) or outside continental United States (OCONUS) for those actions necessary for the mobilization, deployment and redeployment of units.

Contract - A mutually binding legal agreement between two or more persons, enforceable by law.

Contracting - The FAR defines contracting as purchasing, renting, leasing or otherwise obtaining supplies or services from non-federal sources. Contracting functions include preparation of descriptions (but not determinations) of supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. It does not include making grants or cooperative agreements.

Contracting Officer - An official with the authority to enter into, administer and/or terminate contracts. A contracting officer is appointed in writing through a warrant (SF 1402) by the Head of the Contracting Activity (HCA) or designee.

Contracting Officer Representative (COR) - An individual nominated by the requiring activity and appointed by the contracting officer, to act as a representative of the contracting officer. Responsibilities are specifically assigned to the COR in conjunction with the limitations of authority.

Contractor - A corporation, firm, partnership, or individual who provides a service or supply through a contract.

Defense Federal Acquisition Regulation Supplement - A DoD supplement to the FAR establishing uniform policies and procedures applicable to all Defense Agencies.

Designated Billing Office - The office and point of contact designated in the activity internal operating procedures to receive the official invoice and, in some instances, make payments against the official invoice.

Disbursing Officer - An individual responsible for the disbursement and accountability of funds. The officer works for the finance and accounting officer.

Disputes Office - The office and point of contact designated in the internal operating procedures that shall assist the activity and the bank in tracking and resolving disputed purchases.

Financial Summary Report - The official invoice sent to the designated billing office. This monthly invoice will include a summary of all purchase card transactions against all cardholder accounts held by the activity.

Funds Certification Officer - Individual within the requiring organization responsible for the verification of the availability of funds by each account/agency.

Federal Acquisition Regulation - A statutory directive establishing uniform policies and procedures for acquisition by DoD and most other government agencies.

Functional Activities - Those installation level activities outside the contracting office such as Directorate of Logistics (DOL), Directorate of Personnel and Community Affairs (DPCA) and Directorate of Public Works (DPW).

Functional Representative - A member of a functional activity who is tasked to monitor or inspect contractor performance on a specific contract. The person may be a COR, COTR, or other specialist.

Head of Contracting Agency - The official in command of one of the contracting activities listed in DFARS 2.101(a). This official appoints contracting officers at subordinate installations. Contracting officers are responsible to the HCA for ensuring statutory and regulatory compliance in the performance of their acquisition duties.

Head of the Activity (HA) - For purposes of this chapter, the Head of the Activity is the military officer in command or the civilian executive in charge of the mission of a DoN command or activity which has been granted contracting authority by the cognizant HCA; and who has overall responsibility for managing the delegation and use of this authority by personnel under his/her command.

Host Nation Support (HNS) - Agreements normally negotiated through the U.S. State Department to provide HNS for deployed forces. Support items under these agreements may include: billeting, food, water, fuel, transportation, and utilities.

Imprest Fund - A cash fund established by an advance of funds without charge against an appropriation, from a finance or disbursing officer to a duly appointed cashier. The fund will be used for payments in cash for small purchases.

Imprest Fund Cashier - Individual appointed to disburse funds from their imprest fund. The cashier is directly accountable to the finance and accounting officer for the accuracy of payments.

Merchant Type Code - A commercial unique code assigned by the bank which categorizes each merchant according to the type of business the merchant is engaged in and the kinds of goods and services provided.

Navy Acquisition Procedures Supplement - The Navy supplement to the FAR and DFARS which implements Departmental acquisition procedures and instructions.

Purchasing Agent - An official with the authority to enter into and/or terminate contracts usually in the form of purchase orders at or below the simplified acquisition threshold using simplified acquisition procedures. Like a contracting officer, a purchasing agent is appointed in writing through a warrant (SF 1402) by the Head of the Contracting Activity (HCA) or his/her designee.

Simplified Acquisition Threshold - The mandatory threshold for exercising contracts under the authority of FAR Part 13. The SAT is \$100,000. The SAT for contracts locally awarded outside of the United States in direct support of a declared contingency operation is \$200,000. (See part 2-2[f]).

Single Purchase Limit - The dollar limitation assigned to each cardholder for a single purchase.

Transaction Type - The transaction type is the method in which an order is placed with the purchase card. Purchase card buys may be made over-the-counter or by telephone.